



JUNE 8, 1950

Special Articles and Features  
on More Enterprise to  
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FORTNIGHTLY



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Annual



# Public Utilities

## FORTNIGHTLY



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VOLUME XLV

JUNE 8, 1950

NUMBER 12



### ARTICLES

|   |                            |
|---|----------------------------|
| The Electric Companies Have a Much Bigger Job to Do ..... | Elmer L. Lindseth 729      |
| Security on the Home Front .....                          | John Edgar Hoover 732      |
| Fair Play for the State Commissions .....                 | Hon. Harry M. Miller 735   |
| The Electric Utilities Look Ahead .....                   | H. P. Liversidge 745       |
| Public Information Program .....                          | James W. Parker 753        |
| The Welfare State in Motion .....                         | Emerson P. Schmidt 758     |
| What's Being Done about Rights for Utility Stocks? .....  | Franklin T. McClintock 767 |

### FEATURE SECTIONS

|  |              |
|--|--------------|
| Washington and the Utilities .....                           | 780          |
| Financial News and Comment .....                             | Owen Ely 782 |
| What Others Think .....                                      | 791          |
| The March of Events .....                                    | 797          |
| Progress of Regulation .....                                 | 802          |
| Public Utilities Reports (Selected Preprints of Cases) ..... | 808          |

|                               |     |                             |     |
|-------------------------------|-----|-----------------------------|-----|
| • Pages with the Editors .... | 6   | • Remarkable Remarks ....   | 12  |
| • Utilities Almanack .....    | 727 | • Frontispiece .....        | 728 |
| • Industrial Progress .....   | 45  | • Index to Advertisers .... | 76  |

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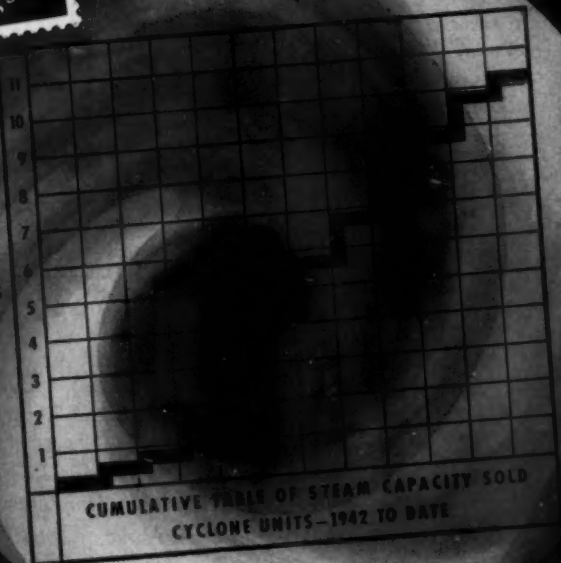
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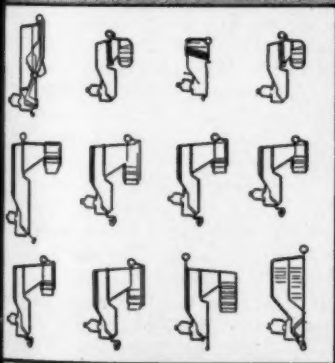
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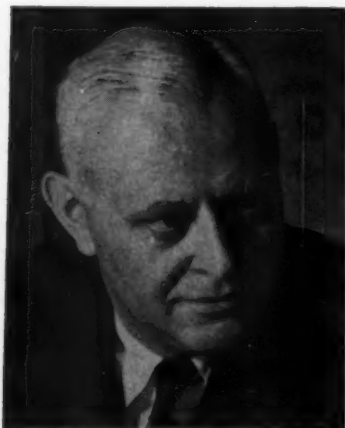
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## Pages with the Editors

**I**F private power companies dedicated their new plant facilities as often as the Federal government, their top officials might have some difficulty finding enough time to do much else. When we stop to think of the enormous investment private power industry has made, is making, and will make, during the whole postwar period, one realizes that private dedication ceremonies (at the rate of a half-dozen per plant) would be running into hundreds. One need only consider the industry's postwar expansion program of \$9 billion to appreciate this fact.

BUT while private power companies do not take time out from public service for such a multiplicity of dedications, there is much encouragement in the thought that the program is going ahead at top speed. This should be a heartening note for the members and guests of the Edison Electric Institute, now assembling for their eighteenth annual convention at Atlantic City. We have specially designed the cover and contents of this issue to be of particular interest to the thousands of electric utility people assembling for the great national meeting. We trust that they will bring away from Atlantic City with them a renewed spirit.



ELMER L. LINDSETH

JUNE 8, 1950



JOHN EDGAR HOOVER

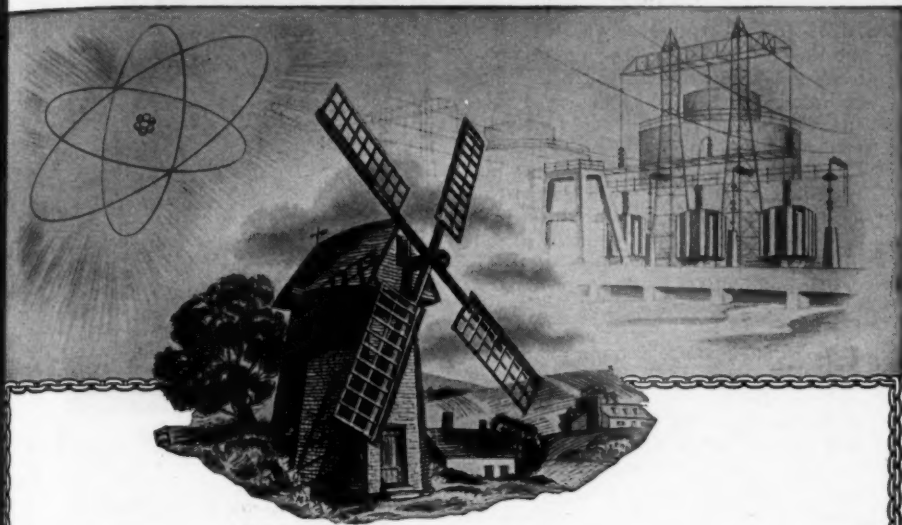
**E**LMER L. LINDSETH, president of the Edison Electric Institute, whose article deals with the theme of the jobs which electric companies still have to do, leads off this special issue. MR. LINDSETH hardly needs further introduction to the readers of these pages.

\* \* \* \*

**A**NOTHER president of a national association is the author of the second feature article in this issue, COMMISSIONER HARRY M. MILLER of the Ohio Public Utilities Commission, who may be better known to our readers in his capacity as the president of the National Association of Railroad and Utilities Commissioners. Born in Gallia county, Ohio, in 1903 and educated at Ohio Wesleyan University and Ohio State University, College of Law, he was admitted to the Ohio bar in 1926. After some general and state public practice in Gallia county he became executive secretary to Governor Bricker in 1939, by whom he was appointed to the Ohio Public Utilities Commission in 1941. He was chairman of that commission from 1947 to 1949.

\* \* \* \*

**I**T would seem almost presumptuous for us to introduce to our readers the author of the article entitled "Security



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community keeping up-to-date?

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on the Home Front" (beginning page 732). JOHN EDGAR HOOVER, director of the Federal Bureau of Investigation, was born in Washington, D. C., in 1895 and educated at George Washington University (LL M, '16; LL D, '17). He has received honorary degrees of Doctor of Law from nearly a score of leading universities. He entered government service as a Federal attorney with the Department of Justice in 1917 and was made director of the Federal Bureau of Investigation in 1924.

\* \* \* \*

**H.** P. LIVERSIDGE, veteran public utility executive, whose article on looking ahead with the electric utilities begins on page 745, is another figure too well known, in the electric industry, to warrant formal introduction in these pages. Born in Norristown, Pennsylvania, in 1878, he became a graduate of Drexel Institute of Philadelphia, specializing in electrical engineering. He joined his present organization in 1898 when it was known as the Edison Electric Light Company. During his career of more than a half-century he rose to the post of president of the Philadelphia Electric Company and allied companies in 1938. He is now chairman of the board of that organization.

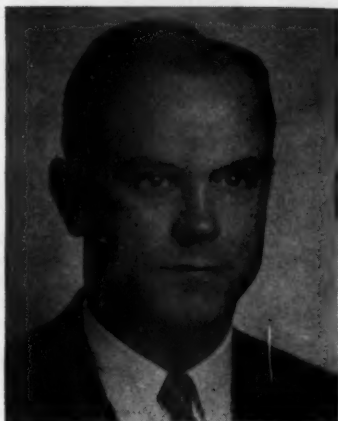
\* \* \* \*

**S**TILL another "big city" electric utility executive of national reputation is



H. P. LIVERSIDGE

JUNE 8, 1950



HARRY M. MILLER

JAMES W. PARKER, president and general manager of Detroit Edison Company, whose article on the "Public Information Program" begins on page 753. MR. PARKER was born in Auburn, New York, in 1886 and educated at Cornell University (ME, '08). He first went into the electric utility business in Illinois and Indiana, joining the Detroit Edison Company in 1910. He has been president of that organization since 1944.

\* \* \* \*

**E**MERSON P. SCHMIDT, whose article entitled "The Welfare State in Motion" begins on page 758, holds degrees from three institutions, North Central College (Illinois), University of Toronto, and the University of Wisconsin. He has taught in four universities: Marquette University, University of Wisconsin, University of Oregon, and University of Minnesota, where he taught for a number of years before becoming chief economist for the United States Chamber of Commerce in Washington, D. C. He is the author of several books and numerous articles on business economics.

THE next number of this magazine will be out June 22nd.

*The Editors*





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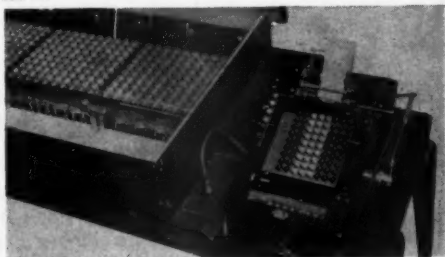
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# Coming IN THE NEXT ISSUE



## **THE POWER OUTLOOK ON THE ST. LAWRENCE-NIAGARA FRONT**

Although dormant for some months, recent developments have brought the St. Lawrence-Niagara power situation back into the news. The position of the state of New York and the treaty relationship between the Federal government and Canada present a complicated picture, in view of the plans and operations of private electric companies in the New York state area. J. Louis Donnelly, of the staff of the New York *Journal of Commerce*, gives us an analysis of the over-all St. Lawrence-Niagara situation.

## **THE PROBLEM OF DEPRECIATION DEDUCTION**

New definitions of depreciation have been coined to accommodate the purposes of those fostering a particular brand of rate making. Ralph M. Besse, vice president and general counsel, the Cleveland Electric Illuminating Company, has written an account of the equitable problem presented by the full deduction of a depreciation reserve in the determination of a rate base. He suggests that we shall not accept the fallacious assumption that depreciation is precisely measurable by accounting formula for the amortization of costs.

## **METHODS OF SELLING UTILITY COMMON STOCKS**

Selection of the one best method of selling common stock of a utility can be of great importance and depends to a considerable extent on the situation of the utility in question. Marvin Chandler, utility security analyst, outlines the most appropriate methods of setting up utility common stock for sale. It is a gradually developing art of the new and better techniques arriving every day.

## **CO-OP TAX EXEMPTION**

Garner M. Lester, president of the National Tax Equality Association, writes on the inequity of co-op tax exemption, especially as it applies to co-ops in the public utility field. The author discusses the several popular misconceptions concerning special tax privileges, in general, and as they apply to co-ops. He takes the stand that apologists for the coöperatives are inclined to ignore certain Treasury rulings which give these economic institutions an unfair advantage over their fully taxed competitors.



**Also . . .** *Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.*

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Officers of the Corporation will be pleased to discuss any phase of public utility finance with interested parties. Your inquiries are cordially invited.



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# Remarkable Remarks

"There never was in the world two opinions alike."

—MONTAIGNE

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*America, Alabama, Dixie-  
American.*

HARRY F. BYRD  
*U. S. Senator from Virginia.*

W. E. REYNOLDS  
*Commissioner, Public Buildings,  
General Services Administration.*

ANGUS MACDONALD  
*Premier, Nova Scotia.*

FRANK W. ABRAMS  
*Chairman, Standard Oil Company  
(New Jersey).*

JAMES H. PIPKIN  
*Assistant to board chairman,  
Texas Company.*

CHARLES E. WILSON  
*President, General Electric  
Company.*

"Just as the night follows the day, so government aid to the individual is followed by government control of the individual."

"It is apparent that the Federal government is headed toward an extended era of chronic deficit spending which may continue until the public debt crushes us into national insolvency."

"Construction funds of all public agencies, Federal, state, or municipal, have a common ancestry. This always is referred to in the singular as the tax dollar, but well we know it to be plural."

"I wish to record my personal view that the system of state ownership and control is not compatible with the democratic principle. You may follow the democratic spirit in the beginning, but a lot of people don't see the implication of what they are doing."

"I earnestly believe corporations are growing in democracy. They are sensitive to the needs and desires of the public. But until their forward movement in this direction is more generally appreciated, even preposterous attacks on them will be widely believed."

"All that we have to do to lose our freedom is to do nothing. We should be aware of our freedom, of the dangers of losing it. We should take part in everyday operation of democracy, and point the way for even greater achievement in the future if we adhere to the principles of the past."

"The arguments of those who complain at the bigness of big business are more fear than fact. The fact is that bigness has been good for American industrial society. . . . Working together for several generations we have created a fruitful pattern which only the foolhardy and the ignorant would now discard."

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## REMARKABLE REMARKS—(Continued)

CHARLES F. KETTERING  
*Research consultant, General  
Motors Company.*

"Recent surveys made by industry and government geologists indicate that the western hemisphere has ample supplies of fuel either in the form of petroleum, natural gas, coal, lignite, or oil-bearing shale to meet our requirements for centuries to come."

WALLACE F. BENNETT  
*President, National Association of  
Manufacturers.*

"The ascending spiral of greatness in America has risen because industry has produced wealth, which in turn has supported educational institutions, which in their turn have supplied leadership to industry in order that with each succeeding generation it might produce more wealth."

EDWIN G. NOURSE  
*Former chairman, Council of  
Economic Advisers.*

"If we are to maintain the march of economic progress we must, in private business and politics, display industry and prudence. We must realize that we can't get more out of the economic system than we put into it. Monetary and fiscal tricks have no power of magic, but are a slippery road to misery."

HARVEY S. FIRESTONE, JR.  
*Chairman, Firestone Tire &  
Rubber Company.*

"Let us set everybody straight about the matter of profits. Let's correct the idea which has been spread by soapbox orators, wily subversives, and well-meaning but misled reformers that the workers get the smallest share of the income which manufacturing produces and that the owners get fabulous amounts."

EDITORIAL STATEMENT  
*The Wall Street Journal.*

"When the people think at last taxes can be held at the prevailing rate, they will find that government always has still more plans for them. There will be always new taxes, but there will be continuing deficits, too. The people will find they can never catch up with the power aims of the state. For those aims are limitless."

DWIGHT D. EISENHOWER  
*President, Columbia University.*

"As we face our problems today and consider their nature we measure the severity of those problems with the degree that we have drifted away from the simple principles with which we began. We can recognize the degree we have changed when the definition of a liberal is a man in Washington who wants to play the Almighty with our money."

CLYDE ELLIS  
*Executive manager, National  
Rural Electric Coöperative  
Association.*

"Our organizations have never engaged in partisan politics. They must never do so—but that does not mean we should not actively support our friends and oppose our enemies, regardless of party. In every state and congressional district where power was made an issue in the campaign two years ago, as far as I know, the people won. We can help them win again. Our job of electrifying rural America is far from finished . . . and we must have the active participation of every farm leader and every farm family all the way from the meter box to the ballot box."

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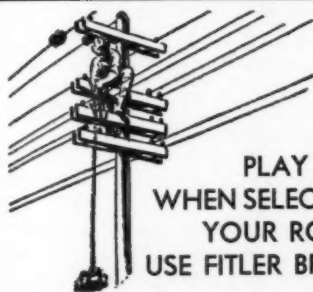
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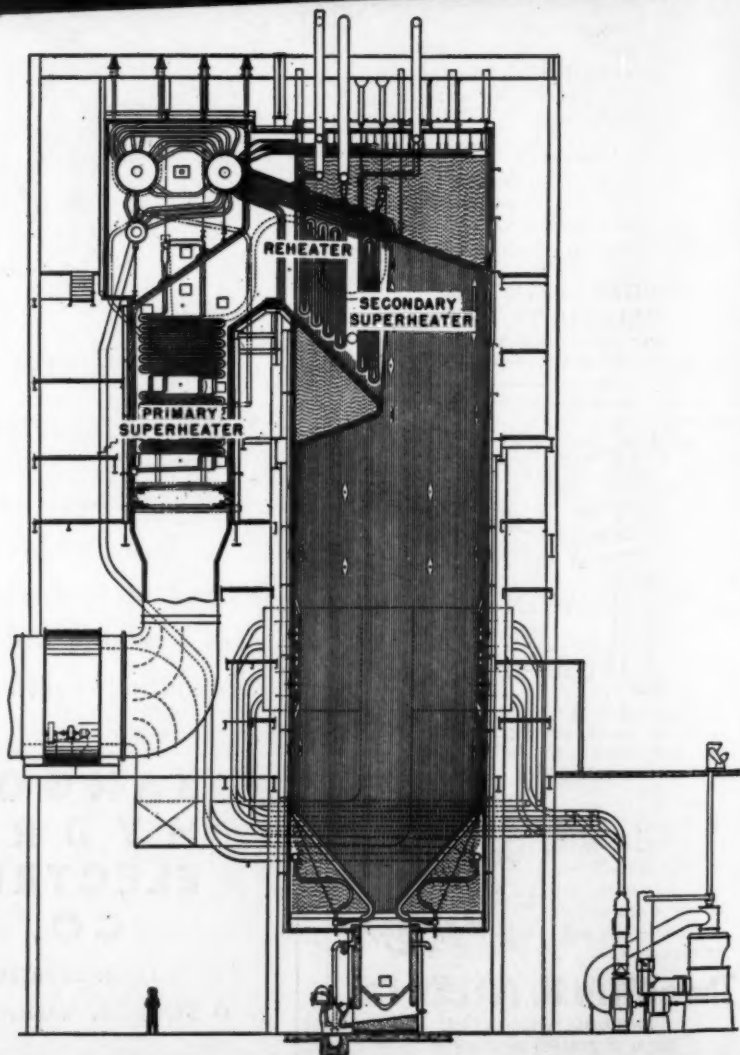
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# C-E REHEAT BOILERS



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# TITUS STATION

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The C-E Unit illustrated here is one of two such units now in process of erection for the Titus Station of the Metropolitan Edison Company at Reading, Pennsylvania.

Each of the units will serve a 75,000 kw turbine generator operating at an initial steam pressure of 1450 psi and a temperature of 1000F reheated to 1000F.

The units are of the radiant type with a reheater section located between the primary and secondary superheater surface. A finned tube economizer is located below the rear superheater section, and regenerative air heaters follow the economizer surface.

The furnaces are fully water cooled, using closely spaced plain tubes throughout. They are of the basket-bottom type, discharging to sluicing ash hoppers.

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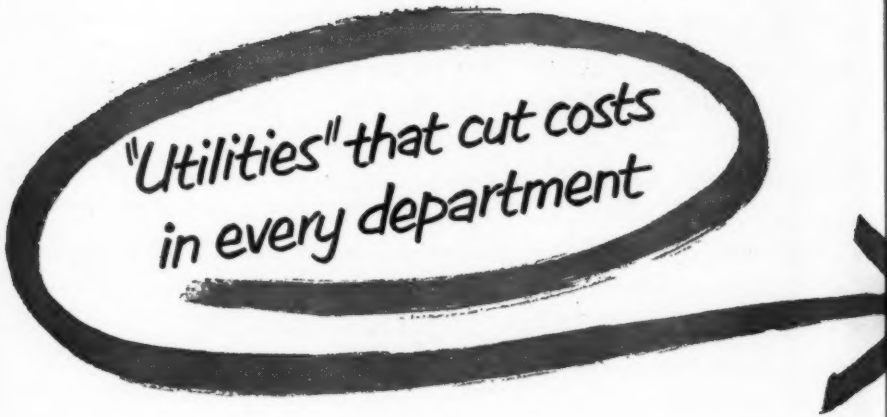
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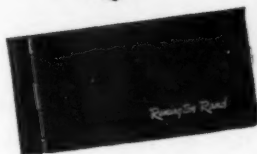


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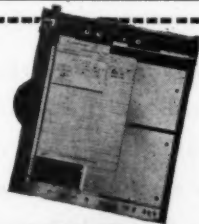
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# ANNOUNCING .

## FOR MERCHANDISING ACCOMPLISHMENT

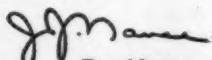
In announcing the Hughes Award for 1950, Hotpoint again looks at Tomorrow Today. Hotpoint believes that the advancements made *today* in the field of electrical appliance merchandising will be reflected *tomorrow* in better living for American people.

Each progressive merchandising step reaps its reward in the strengthening of the bond between the users of electricity and the makers of electricity. Adroit merchandising keeps alive the spirit of both cooperation and competition, without which, progress is impeded.

As the electrical industry moves forward, so does its service to its customers. Skillful merchandising then, is the implement by which greater values are placed in its customers' hands.

And so, Hotpoint again is proud to announce the 1950 Hughes Awards.

***"Through the continued sponsorship of these Awards, Hotpoint foresees recognition of far greater accomplishment than the years just past have offered. The Hughes Awards of the future will record an era of electrical living that, as of today, has only barely started."***

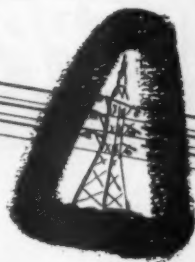


President  
Hotpoint, Inc.

# *The 1950 Hughes Awards*

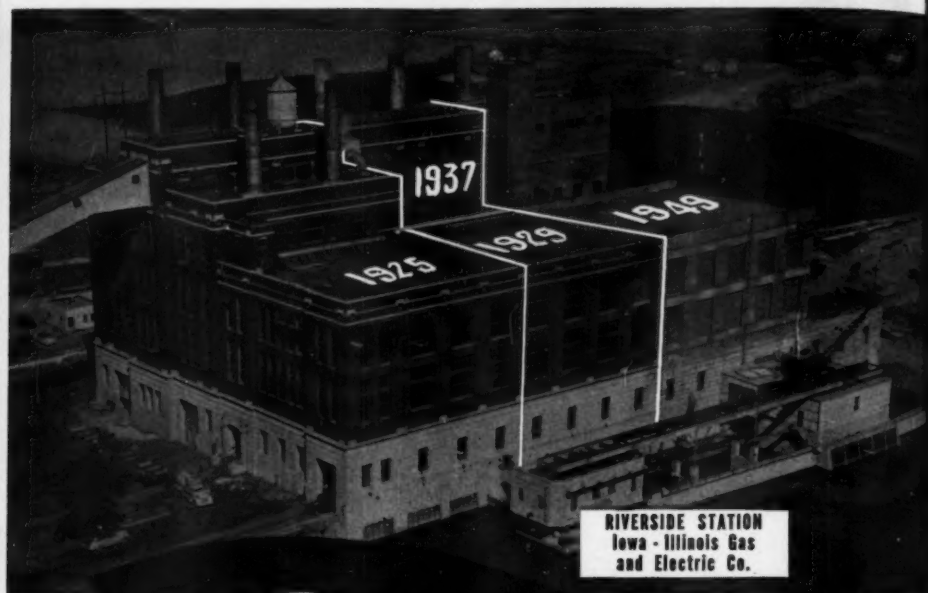
## AMONG ELECTRIC UTILITY COMPANIES

*The 1950 Competition for the George A. Hughes Awards*



A full description of the 1950 Hughes awards, their purposes and their prizes will be sent upon request. Write Utility Division, Hotpoint, Inc., 5600 W. Taylor Street, Chicago 44, Illinois.

**Hotpoint** Inc.  
(A GENERAL ELECTRIC AFFILIATE)



# KEEPING AHEAD!



The expansion of the Riverside Generating Station located on the Mississippi River near Davenport, Iowa, is symbolic of the

growth of this Company as well as of the area served.

During the strenuous war and post-war years, it was this generating station which carried the major portion of the load in keeping ahead of the demand for electric power throughout the Quad-Cities area.

Since completion of the first section in 1925 the maximum generating capability has been increased from 27,000 kw to 137,000 kw. The largest addition was made last fall when 58,000

kw of generating capacity was put in service at a cost in excess of \$7,000,000.

In providing electricity for thriving industrial and farm areas in western Illinois and eastern and central Iowa, the Company operates four generating stations of 212,000 kw maximum capacity interconnected by 201 miles of 161,000 volt and 9 miles of 69,000 volt transmission line.

Expenditures now being made for additional improvements are keeping pace with the growth of the areas served. They will insure the continued adequacy of electric power supply.

## IOWA-ILLINOIS GAS AND ELECTRIC CO.

*P*ublic utility companies have used to advantage the financial knowledge of Harriman Ripley & Co., Incorporated for detailed studies and recommendations as to their financial structures and for nation-wide underwriting of their capital needs.

The experience and facilities of our organization are available to serve the industry in every phase of public utility financing.

---

## Harriman Ripley & Co.

Incorporated

63 Wall Street, New York 5, N. Y.

BOSTON • PHILADELPHIA • CHICAGO

*Representatives in other Cities*



**CONVENIENT**  
**ATTRACTIVE**  
**ALL-STEEL**

# Protection

that doesn't cut off light, air or vision



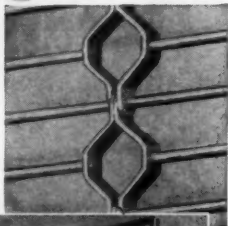
## Kinnear Steel Rolling Grilles

### For Windows, Doorways, Corridors

This all-metal barricade guards any opening with a curtain of rugged steel rounds and links. Yet it doesn't cut off light, doesn't block vision, doesn't impede ventilation. It can be lowered into place or raised out of the way in a matter of seconds! It offers convenient protection without loss of architectural beauty. As the pictures here testify, it's the ideal way to prevent trespassing in areas where the public assembles, or wherever it is desirable to block off certain sections of a building.

Kinnear Rolling Grilles open straight upward and coil into a small, out-of-the-way space above the opening. No usable floor or wall space is wasted. In many installations, the mechanism on which the Grilles coil when opened can be concealed within the lintel construction.

Kinnear Rolling Grilles are made to fit any size window, doorway, corridor, stair-well, elevator shaft or other opening. They can be equipped to operate manually, mechanically (by chain or crank) or electrically. Easily installed in old or new buildings. Write for complete details.



**The KINNEAR Manufacturing Co.**

#### FACTORIES:

2060-80 Fields Ave., Columbus 16, Ohio  
 1742 Yosemite Ave., San Francisco 24, Calif.  
 Offices and Agents in All Principal Cities



*and plenty of it...*  
**FOR IMMEDIATE DELIVERY**

In anticipation of industry's future needs for electric power, the AG&E System is spending \$340,000,000 over a five year period for new generating plants and facilities. But we also have all the power industry needs right now . . . today.

Fact is, we have men out constantly, calling on industries, homes and farms in person, selling them power "for immediate delivery."

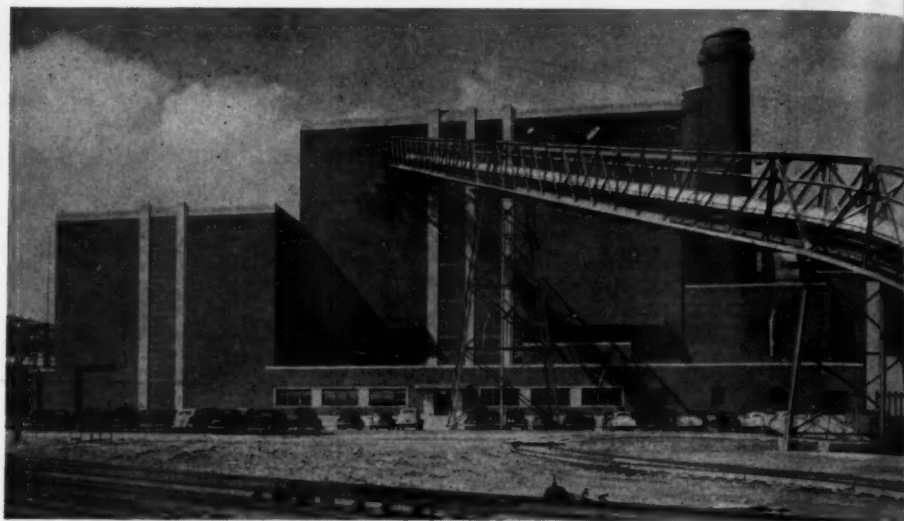
Through printed advertising like this, we're telling our present customers that we have power for sale . . . more power than they're now using . . . extra power they could use to their own advantage.

There is no power shortage in the area we serve. Greater demand, yes. The demand's been greater every year since the war. But every year we've met the demand in full. We have power for sale aplenty.

**AMERICAN GAS AND ELECTRIC COMPANY**  
AND ITS OPERATING SUBSIDIARIES:

Appalachian Electric Power Company  
Indiana & Michigan Electric Company  
Kentucky and West Virginia Power Company, Inc.

Kingsport Utilities, Inc.  
The Ohio Power Company  
Wheeling Electric Company



## Meet Pepco's New Potomac River Generating Station

### **...now in operation!**

On the banks of the historic Potomac in Alexandria, Va., stands Pepco's newest power-producing giant. Two 80,000 KW generating units are now installed. Ultimately it will have five such units and this single plant will have a capacity almost equal to that developed for the entire system during its first half century of "Matchless Service".

Today, thanks to the foresight and efficiency of business-management . . . the skill of Pepco's 2800 employees . . . the confidence of Pepco's thousands of stockholders, the Capital's million and a half residents are assured of adequate power for still further growth.

Best of all, Pepco's customers continue to enjoy one of the lowest residential electric rates in the Nation.



**POTOMAC • ELECTRIC • POWER • COMPANY**



## Own An Interest In the Company That Brings Electric Servants Into Your Home

**SELDOM** HAS THERE BEEN such an opportunity for those who invest for income as exists today through the ownership of shares of the country's operating utilities. These stable enterprises offer geographic diversification and yields of 5 to 7% for your funds.

The following factors make these securities an exceptionally attractive means of building **your personal pension plan**:

- (1) A favorable outlook for expansion of gross earnings—due to an increasing number of customers and increasing use per customer.
- (2) High credit rating—most operating companies can finance economical new plants at low interest rates.

- (3) Corporate structures and property valuation are conservative.
- (4) Liberal dividend yields—with conservative relation to earnings.

As brokers and dealers we specialize in helping investors to select sound securities for investment such as these operating utility companies. We will be pleased to furnish complete information about current opportunities and invite you to write to the Investment Service Department.

### *Note to Operating Utility Executives:*

As underwriters, our services in the distribution of your securities, our research facilities and the experience gained over several decades, may prove helpful to you. We invite your inquiry.

## KIDDER, PEABODY & CO.

Established 1865

*Members New York Stock Exchange*

17 WALL STREET, NEW YORK 5, N. Y.

BOSTON

PHILADELPHIA

CHICAGO

## **SOME FORESIGHTED ELECTRICAL APPLIANCE MANUFACTURER SHOULD LOOK AT ALABAMA**

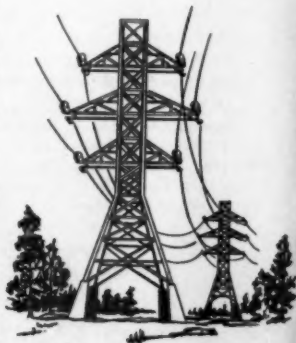
The South is "electrical country"—with few exceptions the average annual use of electricity in homes is much greater than the national average.

With adequate power supply sold at reasonable rates, and with an electrical-minded population, there is every indication that the South will continue to have a high "per family" electric power use.

This vast market awaits the electrical appliance manufacturer who will establish branch plant operations in Alabama—the center of the large Southern area in which this market exists. In Alabama are all the essentials for successful appliance manufacturer—steel and other basic materials, intelligent workmen, ample power supply and adequate transportation.

Our Industrial Development Division will, as in the case of other industries with which we have been privileged to consult, keep your inquiry in strictest confidence, and will, without obligation, be of whatever assistance possible in your studies of Alabama—the center of one of the largest electrical appliance markets in the nation.

**ALABAMA POWER COMPANY**  
HELPING DEVELOP  
ALABAMA



8, 195

COCHRANE  
METERING  
OPEN HEATER  
1915

COCHRANE CORPORATION  
87  
YEARS OF  
SERVICE  
1963-1950

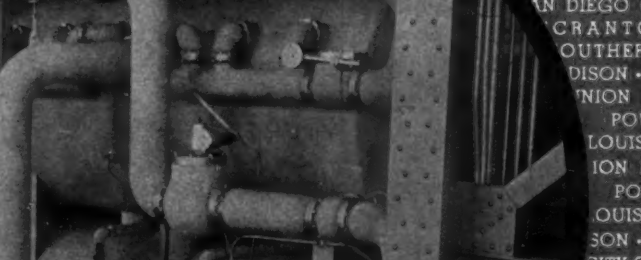
COCHRANE  
DEAERATING  
HEATER  
1925

COCHRANE DEAERATING HEATER 1927

**COCHRANE, pioneer in feed-water deaeration is proud of its many years of service to the electrical industry.**  
COCHRANE CORPORATION, PHILADELPHIA



PUGET SOUND POWER & LIGHT • POTOMAC EDISON • PUERTO RICO RAILWAY  
 PUERTO RICO RAILWAY • CITY OF RICHMOND, INDIANA • CITY OF RICHMOND, INDIANA  
 ROCHESTER GAS & ELECTRIC • KANSAS CITY POWER & LIGHT • KANSAS CITY POWER & LIGHT  
 SAN ANTONIO ELECTRIC & ICE • LACLEDE POWER • CITY OF LACLEDE POWER • CITY OF  
 SAN DIEGO ELECTRIC & ICE • LACLEDE POWER & LIGHT • IOWA ELECTRIC & ICE  
 SALT LAKE CITY ELECTRIC & ICE • LACLEDE POWER • CITY OF LACLEDE POWER • CITY OF  
 SALT LAKE CITY ELECTRIC & ICE • LACLEDE POWER & LIGHT • IOWA ELECTRIC & ICE



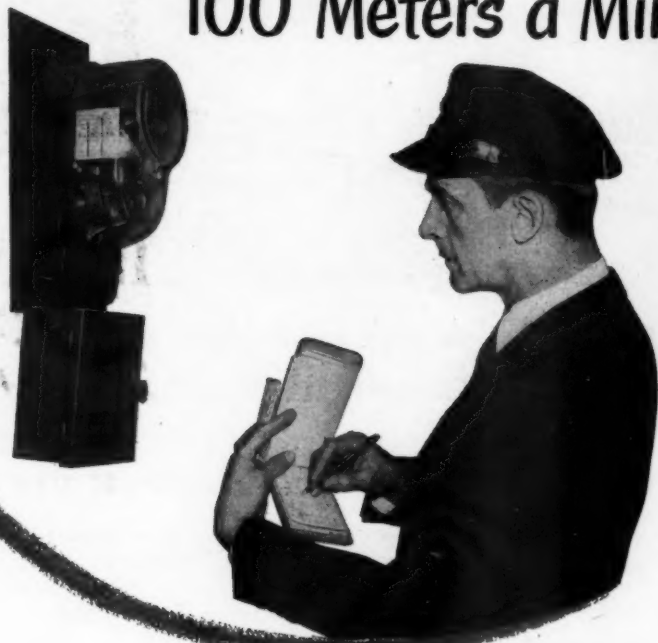
ANTONIO PUBLIC  
SAN DIEGO GAS &  
CRANTON EL  
SOUTHERN CAL  
DISON • TOLED  
NION ELECTR  
POWER, I  
LOUIS • U.  
TION ELECTR  
POWER,  
LOUIS • U.  
SON • TOLED  
CITY OF JACK  
YOKE GAS &

# COCHRANE

CONNECTICUT POWER • PUGET SOUND POWER



## Readings Automatically Transcribed at 100 Meters a Minute



This man is recording a meter reading on an IBM Card with just a few, simple pencil marks. These marks are the only manual operation necessary for performing your billing faster than ever before. No chance for errors due to faulty transcription or subtraction, or to illegible writing. No chance for errors in any manual processing—because the figure-indicating marks are sensed electronically and translated into punched holes by an IBM machine.



INTERNATIONAL BUSINESS MACHINES CORPORATION

This automatic mark sensing by an IBM machine will help you prepare regular and irregular bills at high speed. For more information on low-cost Public Utility Accounting, send in the coupon below.

IBM, Dept. E

390 Madison Avenue, New York 22, N. Y.

Please send me the following booklets:

- ☐ General Accounting for Electric, Gas and Water Utilities  
☐ Customers' Accounting for Electric, Gas and Water Utilities

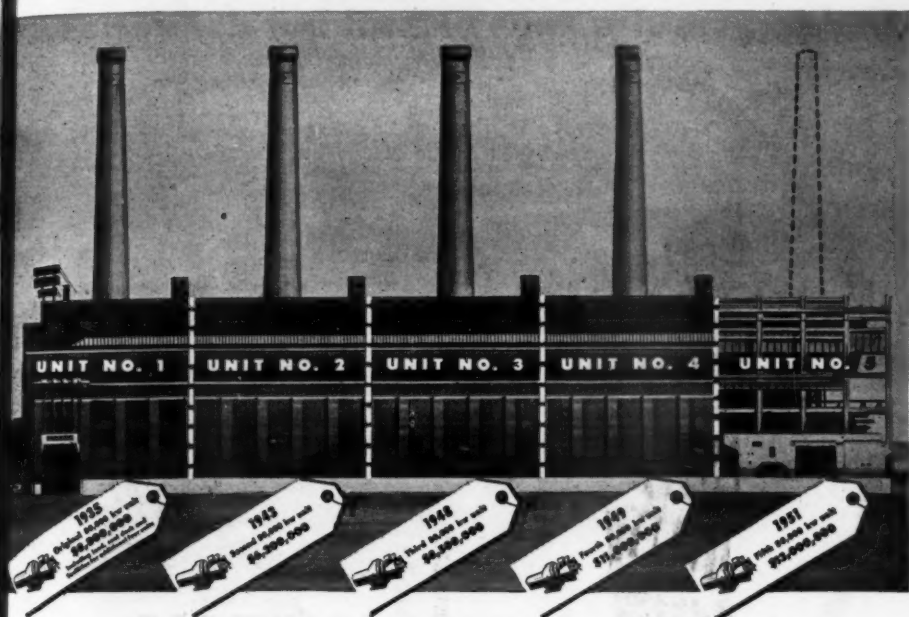
Name \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

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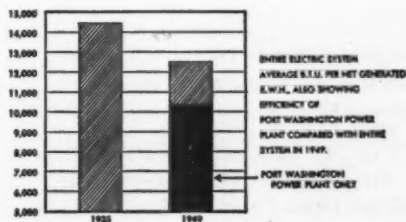
## More electricity for more people at low cost...

The Port Washington Power Plant of Wisconsin Electric Power Company will represent an investment of \$47,500,000 by the end of the year when the fifth and last 10,000 kilowatt unit is completed. This unit with units three and four placed in operation in 1948 and 1949 respectively, increases the plant capacity by 150%. That means — more electricity for more people.

Port Washington is not only bigger, but it's better, too. As each new unit came on the lines, the entire system efficiency was improved. The average BTU's per net generated kilowatt-hour for the year 1949 was about 13% less than in 1935 when unit Number One was placed in operation. That has meant lower cost electricity for our customers.

Yes — to our treasury Port Washington means an investment of \$47,500,000 — to our engineers it means total installed capacity of 400,000 kilowatts and greater system efficiency.

But to our customers it means plenty of low-cost electricity for homes, farms, commerce and industry.



**WISCONSIN ELECTRIC POWER COMPANY**  
Milwaukee, Wisconsin

## Making service calls or making deliveries...



## ***NEW* INTERNATIONALS** with \*Metro bodies save you money!

Here are 7 reasons why the announcement of new versions of America's most popular multi-stop delivery truck is good news to your pocketbook:

**1. New Metro body improvements**—wider front doors, lower floor height, more interior height—simplify loading and unloading.

**2. New driver conveniences** include maximum visibility, easy ventilation control, comfortable seating, and simplified driving control location.

**3. New maneuverability** and ease of steering—thanks to the new steering system and wider-tread front axles.

**4. New smart styling** throughout adds to the unit's advertising value and usefulness.

**5. New Silver Diamond Engine.** \$10,000,000 investment by International in better engine

performance pays off for you in new power and economy.

**6. New heavy-duty engineered International chassis.** The same heavy-duty engineered values that kept International first in heavy-duty sales for 18 years can now cut the cost of your delivery operation.

**7. New models** ranging from 5,400 to 10,000 lbs., GVW. 7¾, 9½, and 12 foot bodies.

You'll be money ahead to see your nearest International Truck Dealer or Branch.

\*Metro. Registered trade mark of The Metropolitan Body Company, Inc., subsidiary of the International Harvester Company.

International Harvester Builds  
McCormick Farm Equipment and Farmall  
Tractors . . . Motor Trucks  
Industrial Power . . . Refrigerators and Freezers



Tune in James Melton and "Harvest of Stars"  
NBC, Sunday afternoons

**ALL NEW, ALL PROVED**

# INTERNATIONAL TRUCKS

INTERNATIONAL HARVESTER COMPANY CHICAGO

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## OF PRIDE *and* PREJUDICE!

**I**T'S PRIDE THAT NEEDS NO APOLOGY . . . that comes from a job well done . . . from the satisfaction of bringing new convenience, comforts and savings to more and more people.

It's a just pride really . . . the kind that any one of a thousand public utilities across the land can claim.

Because their job, *yours*, isn't easy—consists of a great many varied and complex problems.

We can't solve them *all*, of course. But here at Merrill Lynch, we are prejudiced enough to feel that on questions of financing, anyway, you might find good use for our services.

Last year, for instance, we helped forty or fifty firms in your business to raise millions of dollars in much needed funds. Funds that meant continued expansion . . . fresh working capital . . . the retirement of debt.

Sometime soon, similar problems might face you. At that time, you might find it profitable to discuss the most practical method of meeting your needs with our Underwriting Department. We'll be happy to give you any assistance we can—without obligation, of course. Just contact—

*Underwriting Division*

**MERRILL LYNCH, PIERCE, FENNER & BEANE**

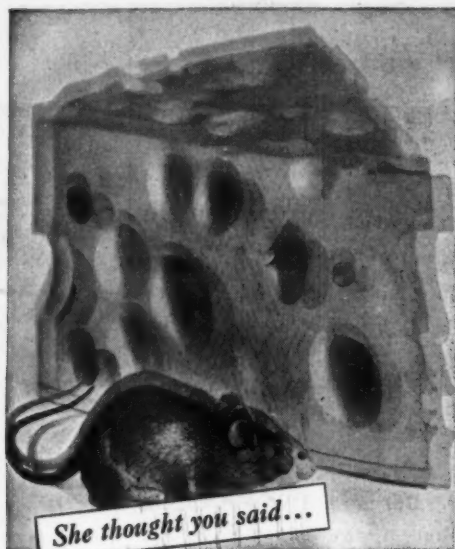
*Underwriters and Distributors of Investment Securities  
Brokers in Securities and Commodities*

70 PINE STREET

NEW YORK 5, N. Y.

*Offices in 98 Cities*





She thought you said...



You actually said...

But you can't mistake "CHEESE" for "CHIEFS" on Disc Edison Voicewriter

## More Time Gained—More Work Done

WHEN EAR-TUNED JEWEL-ACTION GIVES YOUR WORDS "LETTER PERFECT" TRANSMISSION

How much do mistakes in written communications cost you in time, in money?

No such errors with Disc Edison Voicewriter—the instrument that adds the *understandability* of direct dictation to the *convenience* of machine dictation.

Your words arrive at their destination without error, without delay, because every sound is clearly defined.

### YOU SAVE BUSINESS TIME

Disc Edison Voicewriter is engineered for complete *understandability*—more by far than any other instrument.

Exclusive Ear-Tuned Jewel-Action faithfully preserves "high-frequency" sounds. Each *s*, *th*, *z*, *f* is clearly distinguished. No mistaking "three" for "free," "shell" for "sell." Your secretary gets your

dictation "letter perfect"—saves time for you, saves time to *help* you.

No other instrument matches Edison understandability—only Edison has Ear Tuned Jewel-Action.

Write us for the helpful free booklet, "Don't Work So Hard." Address Thomas A. Edison, Incorporated, 45 Lakeside Ave., West Orange, N. J.



Executives save as much as a month a year when they replace old-fashioned handling of communications with the modern Disc Edison Voicewriter. Secretaries are freed for "junior executive" duties.



Compact Disc Edison Voicewriter is expressly built for office dictation and is portable, too—but with no sacrifice of *understandability*.



For free demonstration, phone "EDIPHONE" in your city or write Thomas A. Edison, Incorporated, West Orange, New Jersey. In Canada: Thomas A. Edison of Canada, Ltd., Toronto 1, Ontario.

Thomas A Edison

In 1949, generation built in history. up with

An  
The wh  
power  
enterp  
provid

# Plenty of POWER



In 1949, Idaho Power Company added more generating capacity to its system than was built in the first 25 years of the company's history. More is being done in 1950, keeping up with the progress of the Snake River

Valley. No city or community served by Idaho Power has been—or will be—hampered in its expansion and development for the lack of electric power.

## No Power Shortage Here

Not only have all new needs for electricity been met—for phosphate development, antimony smelting, and many others—but there has been provided a comfortable margin of electric capacity for growth. This has permitted communities in the area to work at bringing in new industries, secure in the knowledge that electric power is available. This is a sharp contrast with the experience of those areas of the Pacific Northwest where the Federal Government has assumed responsibility for power supply.

## An Accomplishment of Private Enterprise

The whole program of development of more power for the region has been by private enterprise. Much of the capital has been provided by local investors. The entire

\$80,000,000 program of expanding Snake River Valley's electric supply is a fine example of what can be done when private enterprise has the opportunity to "deliver the goods."

**IDAHO  POWER**  
A CITIZEN WHEREVER IT SERVES

*Underwriters and Distributors*  
*of*  
**Investment Securities**

---

**Union Securities Corporation**

65 Broadway, New York 6

Telephone: HANover 2-4800

BOSTON  
HARTFORD

• BUFFALO •  
• PHILADELPHIA •

CLEVELAND  
SYRACUSE

**LORD ELECTRIC COMPANY INC.**

**Electrical Construction  
CONTRACTORS**

NEW YORK

• PITTSBURGH •

BOSTON

**SPECIALISTS IN INDUSTRIAL PLANTS AND POWER HOUSES**

When planning electrical construction would you be interested in a form of electrical contract by us that:

1. Limits profit.
2. Guarantees the outside price.
3. Negotiated credit on all savings.

This form of contract as well as our record and reference based on 55 years experience, will be sent on request.



# his WE DO KNOW...

*that by following these PRINCIPLES as our WAY of LIFE we feel that we can rightfully...*

## \*PRINCIPLES....

- 1 We stand foursquare for the continuance of the free enterprise system.
- 2 We are dedicated to furnishing low cost, dependable service to our customers; improve the welfare of our employees; earn a fair return for our investors and above all strive for the security of our nation.
- 3 We believe in the sound economic development of all of our natural resources consistent with equal opportunity.
- 4 We believe in regulation of rates and services by competent agencies who derive their authority from and are responsive to the people living in the areas served.
- 5 We will continue to work for the development of the areas and communities we serve.
- 6 We believe that government should not in a proprietary manner perform functions that industry is fully capable and willing to perform.
- 7 We believe that mutual cooperation between government and our industry is to the best interests of all our people.

*take our place with the other leaders of our national business economy who are making the PEOPLE realize that strong bureaucratic CENTRAL GOVERNMENT can never take the place of the FREE ECONOMY that has made OUR NATION prosper.*

## THE DAYTON POWER AND LIGHT COMPANY

A Division of The American Water Works Association  
Incorporated Under the Laws of the State of Ohio





## EXIDE-MANCHEX BATTERIES

assure positive switchgear operation  
at St. Louis, Prairie Substation of  
Union Electric Company of Missouri

In this modern substation, the 60-cell DME-11 Exide-Manchex installation is used for D.C. control circuits, including switchgear tripping and closing, and emergency lighting. Exide-Manchex Batteries were chosen for their well-known dependability, long life, low cost maintenance and many outstanding features which are equally important to you. They include . . .

- the famous manchester positive plate with its exclusive lead button construction.
- slotted plastic separators, impervious to chemical and electrical reaction.
- plastic spacers that maintain perfect plate alignment.
- the latest development in molded glass jars.
- heavy terminal posts with copper inserts for extra conductivity.

Combined, these Exide-Manchex features assure you dependable power for positive operation of switchgear . . . an adequate and uninterrupted supply of current for all your stationary storage battery requirements in central and substation service.

*"Exide" and "Manchex" Reg. Trade-marks U. S. Pat. Off.*

THE ELECTRIC STORAGE BATTERY COMPANY • Philadelphia 32  
Exide Batteries of Canada, Limited, Toronto

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1888  
DEPENDABLE BATTERIES FOR 62 YEARS  
1950

*This advertisement is neither an offer to sell nor a solicitation of offers to buy any of these securities.  
The offering is made only by the Prospectus.*

NEW ISSUE

May 17, 1950

1,000,000 Shares  
**Southern California Edison  
 Company**  
 Cumulative Preferred Stock, 4.08% Series  
 (\$25 par value)

---

**Price \$25.50 per share**

plus accrued dividends from May 19, 1950  
 if delivered after that date

---

*Copies of the Prospectus may be obtained from any of the several underwriters,  
 including the undersigned, only in States in which such underwriters are qualified to  
 act as dealers in securities and in which the Prospectus may legally be distributed.*

**The First Boston Corporation**

**Harris, Hall & Company**  
 (Incorporated)

**Dean Witter & Co.**

**Blyth & Co., Inc.**

**William R. Staats Co.**

**Eastman, Dillon & Co.**

**Glore, Forgan & Co.**

**Goldman, Sachs & Co.**

**Harriman Ripley & Co.**  
 Incorporated

**Kidder, Peabody & Co.**

**Lehman Brothers**

**Merrill Lynch, Pierce, Fenner & Beane**

**Smith, Barney & Co.**

**Stone & Webster Securities Corporation**

**Union Securities Corporation**

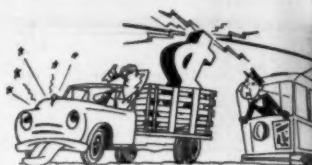
**White, Weld & Co.**

**Blair, Rollins & Co.**  
 Incorporated

**W. C. Langley & Co.**

**Salomon Bros. & Hutzler**

Are high hauling costs  
short-circuiting profits?



Switch to economical  
**DODGE**  
"Job-Rated"  
trucks!

You can get a direct "line" to lower hauling costs by investing in an economical Dodge "Job-Rated" Truck!

Such a truck will have an engine that's "Job-Rated" to give you power to spare. Along with this extra power, you'll get maximum gas and oil economy!

Every other chassis part will also be "Job-Rated"—engineered and sized to fit your job. Your Dodge Truck will cost you less to operate!

If your hauling is in heavy city traffic, you'll be pleased with the ease of handling of your Dodge "Job-Rated" Truck. If you go where roads are bad—or where there are no roads at all—you'll like the power and dependability of your Dodge "Job-Rated" Truck.

If high hauling costs are "short-circuiting" your profits, switch to economical Dodge "Job-Rated" trucks. See your Dodge dealer today!



With all their extra value **DODGE** "Job-Rated" **TRUCKS** are priced with the lowest

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# MOVING FORWARD as never before

America's intermountain region is moving forward as never before.

Specifically, here are just a few indications of the growth taking place in Utah, our major market (we also serve southeastern Idaho, southwestern Wyoming, and western Colorado, which are growing, too).

● Since 1939 . . .

- ✓ Utah's annual income has more than trebled.
- ✓ Employment has jumped 61 %.
- ✓ Trade volume has climbed nearly four times.
- ✓ Population has vaulted 24 %, while the nation gained about 11 %.

- Nearly \$200,000,000.00 was invested in new plants and equipment in the state during 1948-49.

Business and industry are moving forward solidly in the mountains — with seven-league boots. Prospects for the future are even brighter.

## UTAH POWER & LIGHT COMPANY

*This is under no circumstances to be construed as an offering of these securities for sale, or as an offer to buy, or as a solicitation of an offer to buy, any of such securities. The offer is made only by means of the Prospectus.*

**320,231 Shares**

## **WISCONSIN POWER AND LIGHT COMPANY**

**Common Stock**

**(Par Value \$10 per share)**

*Rights, evidenced by Subscription Warrants, to subscribe for these shares have been issued by the Company to holders of its Common Stock, which Rights expire June 12, 1950, as more fully set forth in the Prospectus.*

---

**Subscription Price to Warrant Holders**

**\$16.75 per share**

---

Prior to the expiration of the Subscription Warrants, the several Underwriters may offer shares of Common Stock from time to time, on a when-issued basis or otherwise, at prices which shall not be less than the subscription price set forth above, less any concession to dealers, nor more than the highest price at which the Common Stock of the Company is being currently offered in the over-the-counter market by other dealers plus 20¢ per share.

*Copies of the Prospectus may be obtained from the undersigned only in those States in which the undersigned may legally offer these securities in compliance with the securities laws of the respective States.*

**Smith, Barney & Co.**

**Robert W. Baird & Co., Incorporated**

**The Milwaukee Company**

**Blyth & Co., Inc.**

**The First Boston Corporation**

**Glore, Forgan & Co.**

**A. C. Allyn and Company**

**A. G. Becker & Co.**

**Central Republic Company**

Incorporated

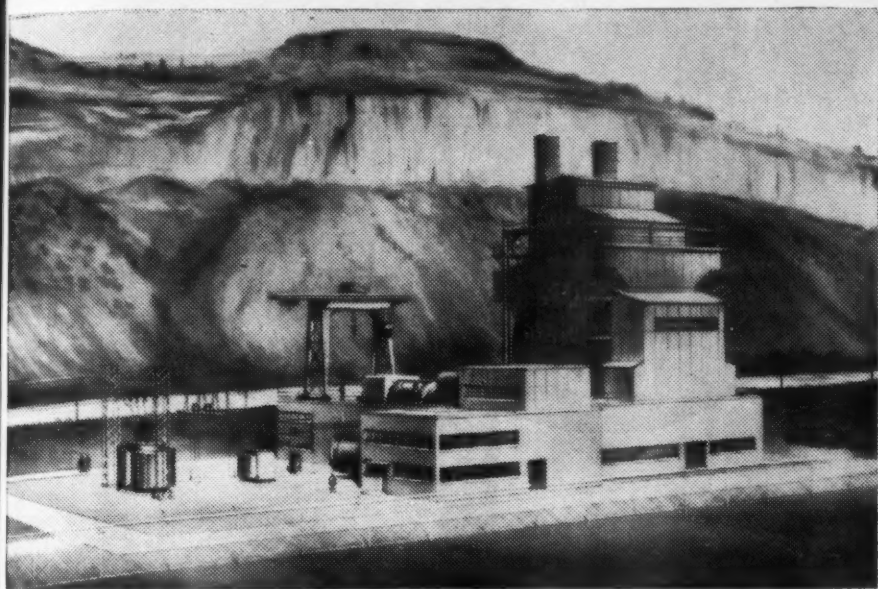
Incorporated

(Incorporated)

**Loewi & Co.**

**Paine, Webber, Jackson & Curtis**

May 29, 1950



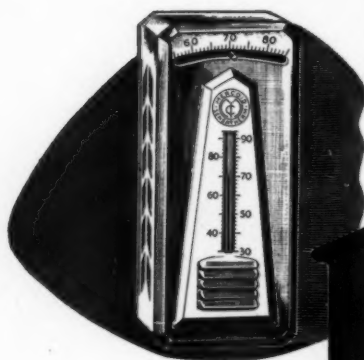
## Building for a Greater Montana

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*The Montana Power Company*





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# Utilities Almanack



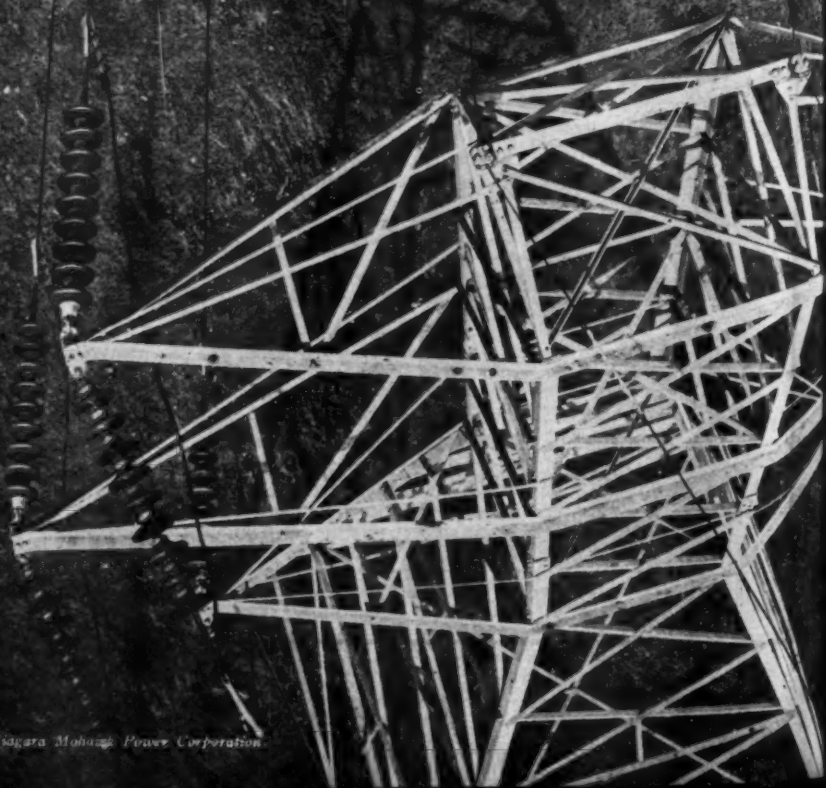
## JUNE



|    |                |  |
|----|----------------|--|
| 8  | T <sup>A</sup> | † Radio Manufacturers Association ends annual convention, Chicago, Ill., 1950.   |
| 9  | F              | † Oregon and Washington Independent Telephone Associations begin annual convention, Spokane, Wash., 1950.  |
| 10 | S <sup>a</sup> | † Advertising Association of the West will hold annual convention, Los Angeles, Cal., June 25-29, 1950.  |
| 11 | S              | † American Society for Testing Materials will hold annual meeting, Atlantic City, N. J., June 26-30, 1950.   |
| 12 | M              | † American Institute of Electrical Engineers begins summer general meeting, Pasadena, Cal., 1950.  |
| 13 | T <sup>a</sup> | † Illuminating Engineering Society National Technical Conference will be held, Pasadena, Cal., Aug. 21-25, 1950.   |
| 14 | W              | † Annual Appalachian Gas Measurement Short Course will be held, West Virginia University, Morgantown, W. Va., Aug. 30-Sept. 1, 1950.                                   |
| 15 | T <sup>A</sup> | † Canadian Electrical Asso. begins convention, Murray Bay, Quebec, Canada, 1950.<br>† North Dakota Telephone Association begins convention, Fargo, N. D., 1950.        |
| 16 | F              | † National Association of Electrical Distributors ends annual convention, Atlantic City, N. J., 1950.  |
| 17 | S <sup>a</sup> | † Second Annual Radio News Editor's Conference begins, Kent State University, Kent, Ohio, 1950.  |
| 18 | S              | † American Society of Agricultural Engineers begins convention, Washington, D. C., 1950.   |
| 19 | M              | † Michigan Gas Association begins annual convention, Mackinac Island, Mich., 1950.<br>† Pennsylvania Electric Association begins meeting, Reading, Pa., 1950.          |
| 20 | T <sup>a</sup> | † Canadian Gas Association begins convention, Murray Bay, Quebec, Canada, 1950.<br>† New York-New Jersey Regional Gas Sales Conference ends, Spring Lake, N. J., 1950. |
| 21 | W              | † American Society of Heating and Ventilating Engineers ends semiannual meeting, Muskoka Lake, Ontario, Canada, 1950.  |

## Shadow of Modern Public Service

*What the power company's flying patrolman sees during his appointed rounds.*



*Courtesy, Niagara Mohawk Power Corporation.*

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# Public Utilities

*FORTNIGHTLY*

VOL. XLV, No. 12



JUNE 8, 1950

## The Electric Companies Have A Much Bigger Job to Do

Their performance during the first five postwar years in building, financing, contending with higher costs, and providing *more* power to *more* people for *more* uses, demonstrates that they can develop the capabilities to meet successfully every challenge, including the threat of further socialization of the electric utility business.

By ELMER L. LINDSETH\*

PRESIDENT, EDISON ELECTRIC INSTITUTE, AND  
PRESIDENT, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY

If we in the business of supplying electric light and power service to the people of America were overly given to looking backward, we might be in danger of overconfidence and complacency.

During the first five postwar years

\*For additional personal note, see "Pages with the Editors."

the achievements of our business-managed, self-supporting, tax-paying companies have been phenomenal. We have carried forward successfully the largest construction program ever undertaken by any single industry in the United States. We have demonstrated our ability to design, build, finance, and serve, and to maintain the

## PUBLIC UTILITIES FORTNIGHTLY

best of relations with our customers, employees, investors, and the general public. We are supplying electricity at a lower average price than ten years ago. All this we have accomplished despite a vigorous campaign by socialist-minded people, in and out of the government, to nationalize our industry as a major move to establish a socialistic Federal state.

But even with this record of performance, we are neither overconfident nor complacent. Ours is a forward-looking business. We see clearly that the job ahead of us is much bigger than the job we have done. We are applying ourselves to increasing our companies' capabilities to meet every demand and every challenge of the future to the thorough satisfaction of all parties at interest in our business.

**I**T is expected that the 1950 census will demonstrate that the electrification of our nation has been practically completed, in the sense that nearly 100 per cent of our homes, farms, factories, and other types of premises are using electric service or have it available. Despite socialistic governmental competition, the electric light and power companies have done by far the most of this electrification, and presently are serving 80 per cent of the nation's electric customers, who in turn are using 85 per cent of all the power supplied by utilities.

We have connected millions of customers to our lines since VJ-Day 1945. We have completed about 75 per cent of our 1946-51 program of additions, replacements, and improvements, requiring an expenditure of \$10 billion. This 6-year construction program will add about 21,000,000 kilowatts to our

power production capacity, an increase of 52 per cent, and will give us a power reserve of over 18 per cent.

But this does not signify that the electrification of the United States, in the larger sense of supplying all the electric service that our nation will require, will be completed by the end of 1951—or ever! There is no foreseeable limit to the growth of demand for more power, by more people, for more uses.

If the development of the electric light and power industry should increase in the next twenty years at the same rate it has increased during the past twenty years, it will have by 1970 power plant capacity of over 200,000,000 kilowatts, an annual revenue of \$11.5 billion, and property and plant of \$65 billion. These figures are projections; they are not a forecast. But they are perhaps significant.

To add more than 130,000,000 kilowatts of power production capacity with collateral additions to transmission and distribution systems, and to obtain and invest \$40 billion or more of new capital in plant and property, *within twenty years*, is an assignment that challenges the imagination.

In view of our companies' record of performance during the first five post-war years, it is not a formidable assignment, provided we prepare adequately to carry it out successfully—which we will do.

**I**T goes without saying that we will strive constantly in the future, as in the past, to improve economies and efficiencies in design, construction, and operation; to supply our customers with the best possible service at the lowest rates compatible with fair treat-

## THE ELECTRIC COMPANIES HAVE A MUCH BIGGER JOB TO DO

ment of our employees and our investors; and to maintain a record of earnings that will attract more capital to provide more facilities as needed to supply more service. Efficient operation and adequate rates are vital and inseparable components of competent, satisfactory electric service.

To these principles and practices, which are traditional in the electric light and power business, something fairly new has been added. This is an intensified program to find, train, and develop the best available man power to handle future managerial responsibilities at all levels in the business—responsibilities that will continue to increase in size and scope as the business itself develops.

One requisite of such man power is an unflinching faith in, and devotion

to, the American way of life, and the free enterprise system which has enabled the electric light and power companies of America to furnish the people of this nation with the world's best, most abundant, and lowest-priced electric service.

As a whole, the electric light and power business today is performing a greater service, and is on a more solid economic foundation, than ever before in its history. As in the postwar years, this business can and will develop the capabilities necessary to meet its every future responsibility—including the responsibility of demonstrating day in and day out that business under freedom of enterprise can and does serve the public interest better than does any socialistic bureaucracy anywhere in the world.

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### EEI 1950 CONVENTION TIMETABLE, ATLANTIC CITY, NEW JERSEY

#### *Sunday, June 4th*

12:00 noon Registration, main lobby, Hotel Traymore (till 5 p.m.).

#### *Monday, June 5th*

9:00 a.m. Registration, main lobby, Hotel Traymore (till noon);  
Convention Hall (till 5 p.m.).

2:30 p.m. First General Session, Ballroom, Convention Hall.

#### *Tuesday, June 6th*

9:00 a.m. Registration, Convention Hall (till 7 p.m.); Chalfonte-Haddon Hall (noon to 3 p.m.).

10:00 a.m. Second General Session, Ballroom, Convention Hall.

12:30 p.m. Ladies' Luncheon, American Room, Hotel Traymore.

12:30 p.m. Board of Directors' Luncheon-Meeting, Club Room,  
Hotel Traymore.

2:30 p.m. Concurrent General Session (Operating Company Relations), Rutland Room, Chalfonte-Haddon Hall.

2:30 p.m. Concurrent General Session (Rural Electrification), Vernon Room, Chalfonte-Haddon Hall.

5:00 p.m. Cocktail party, Convention Hall Auditorium. (Supper at 7 p.m., entertainment, dancing, Convention Hall Ballroom.)

#### *Wednesday, June 7th*

9:00 a.m. Registration, Convention Hall (till noon).

10:00 a.m. Fifth General Session, Ballroom, Convention Hall.

3:30 p.m. (Eastern Standard Time) Special train leaves for Philadelphia and New York city.

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## Security on the Home Front

*Mobilization for national security on the home front has always been a matter of special interest and importance to the electric utilities and other public service industries. Protection of essential plant facilities, as well as the safe-guarding of personnel from influences inimicable to the nation's welfare, has been a vital part of the responsibility of utility management in peace or war. Utility executives will therefore be glad to note this message from the head of the government service which has these matters under continuous surveillance.*

By JOHN EDGAR HOOVER\*  
DIRECTOR, FEDERAL BUREAU OF INVESTIGATION,  
UNITED STATES DEPARTMENT OF JUSTICE

UPPERMOST in the minds of most American people today is the security of our way of life. The safe-guarding of our families and dear ones, the protection of our homes and places of employment, and the continuation of our democratic system of government, with its guaranties of freedom and liberty secured for us by the molders of our Constitution and Bill of Rights, are matters of grave concern to all of us.

Disturbed by the reports of conflict and the grave international complications which have grown out of the last

great war, loyal and patriotic citizens of the United States are turning their attention to the defenses of our nation and are weighing the protective measures which may be taken in the event of a possible emergency. Alertness on the part of an informed citizenry is one of our most effective weapons against encroachment from abroad and at home of insidious forces which seek to destroy us.

While World War II did not completely eradicate the threats to our welfare, we did learn many valuable lessons which will stand us in good stead in the problem of meeting any future onslaught. Methods of organ-

\*For additional personal note, see "Pages with the Editors."

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## SECURITY ON THE HOME FRONT

ization, techniques for neutralizing the effectiveness of the spy and the saboteur, and new strategies for combatting the enemy on the home front have been added to our defensive armory.

THE American people have entrusted to the FBI a great responsibility. Not only is the FBI charged with the duty of investigating violations of the criminal laws of the United States, but, by presidential directives, it is also charged with the duty of investigating matters relating to espionage, sabotage, and the general internal security of the nation both in times of war and during the peace.

Careful preparatory planning and painstaking investigation by the FBI before Pearl Harbor made it possible to remove in a matter of hours from our defense factories, public utilities, and other vital centers of national life, thousands of individuals who constituted a threat to our war effort.

As a result of surveys made of the nation's key factories and industrial facilities by trained agent personnel of the FBI, management was afforded many valuable suggestions in protecting and securing its plants against the malicious inroads of the foe. In some cases it was necessary for the industries to spend large sums of money to remove security hazards from their facilities, to enlarge plant protection guard forces, fence in critical areas, and establish new systems of identifying employees and controlling the activities of plant visitors. The success of such measures was self-evident. Not a single case of foreign-directed sabotage occurred in the United States during the war.

THE internal security of the United States is again jeopardized by a threat more insidious and more sinister than any posed by the Nazi Bund or its Italian or Japanese equivalents. Propelled by a fanatic devotion to a godless philosophy, the American Communists, through deliberate and calculated moves, are seeking to replace our system of life with a system which has brought suffering and degradation to one-third of the peoples of the world. The communist threat to the United States is real and ever present. Under their perfidious credo, the end justifies the means by which it is accomplished. In the event of a national emergency, our public utilities, our systems of communications and transportation, and our basic industries would loom as important targets for their conniving aim to infiltrate and disrupt the vital life stream of our American system.

It is fundamental that all individuals and groups engaging in subversive activities be identified and the degree of their dangerousness determined. Predetermination of these factors is imperative if adequate measures are to be taken to organize and perfect procedures whereby the threats to our security may be removed from critical areas. Systems and measures which proved effective in the past may again be employed by those responsible for the security and protection of plants.

Complete coverage of communist activities must necessarily be maintained by a flow of information from many sources. In order to successfully discharge its duties to protect the internal security of the United States, the FBI must have the wholehearted cooperation of all patriotic Americans.

## PUBLIC UTILITIES FORTNIGHTLY

This was emphasized by the President in his wartime directives when he called on all organizations and individuals to immediately report to the FBI information relating to espionage and sabotage.

**E**TERNAL vigilance is a small price to pay for freedom. By accepting this responsibility, the American peo-

ple maintain our constitutional form of democracy which contains within itself the weapons for its own defense.

Preparation and planning must be carried out calmly and without hysteria. Panic and ill-advised measures are antagonistic to orderly processes. Coöperation and understanding are the keystones around which our defensive structure must be built.

### A Puzzling Picture in the Crystal Ball—1960

**“AN** advance showing of the 1960 American family has been presented by H. N. Beville, Jr., director of research for the National Broadcasting Company.

*“Writing in PRINTERS’ INK, Mr. Beville foresees the 1960 model family as better educated, more standardized in tastes and behavior, older, smaller in numbers, more concentrated in metropolitan areas, possessed of more leisure time, and trending toward the western part of the country.*

*“There will be more working women, and the wealth will be more equally shared.*

*“These predictions are interesting as far as they go, but they raise some pertinent questions.*

*“Will our ‘better educated’ families be educated to think for themselves or to swallow the guff of Federal education subsidizers?*

*“Will standardization of tastes be a sign of the slow decay of individualism?*

*“Will the older, smaller family presage a decay of America as a youthful, dynamic nation?*

*“Will the movement away from the land stem from the vanishing from the American scene of the old substantial family-size farm?*

*“Will the increase in leisure time be spent in wholesome enjoyment or in working up some new sort of mass neurosis?*

*“Will the trek to the West mean the sunset of eastern cultural and financial preëminence?*

*“Will the increase in the number of working women spell the ultimate downfall of the family unit in America?*

*“And will the more equal distribution of wealth result from greater competition on the part of the former low income groups . . . or from the final flowering of the soak-the-rich philosophy?*

*“If you have the answers to those questions, you can foretell the future of America to an almost frightening extent.”*

—EDITORIAL STATEMENT,  
Chicago Journal of Commerce.



## Fair Play for the State Commissions

*Public utility service in the United States is admittedly the best and most plentiful in the world. With less than 7 per cent of the world's population, this nation alone has almost half the electric generating capacity and well over half of all the telephones in the entire globe. Despite such unparalleled success of public service development under our typical American system of commission regulation of private enterprise, we have seen in recent years malicious attacks on the competency and even the integrity of our state commissions. Here is a hard-hitting challenge by the critics of regulation, for fair play and truthful discussion.*

BY THE HONORABLE HARRY M. MILLER\*

PRESIDENT, NATIONAL ASSOCIATION OF RAILROAD AND UTILITIES COMMISSIONERS

THE ascendancy of Federal regulation of public utility enterprises during the past two decades, together with recent controversies involving Federal commissions, the interpretation and application of Federal law, and the jurisdictional questions arising therefrom, have tended to magnify disproportionately the responsibility and scope of Federal regulation as compared with state regulation. Unfortunately, out of these controversies, unfavorable and unfair criticism and aspersion have been cast upon state regulation and state commissions generally. Zealots, in their own defense and in an attempt to pro-

mote their own interests and philosophies, have resorted to innuendo and insult.

The responsibility for the approval of rate increases covering utility services to the householder and other ultimate consumers, made mandatory by postwar inflationary costs, has fallen directly upon the shoulders of state commissions. Such complaints as have arisen have, therefore, been directed at state commissions and state regulation.

My own observation has been that the people have been far more understanding in their acceptance of upward rate adjustments than have those relatively few, but more vocal individuals, who would use criticism as a vehicle to further their notions of public utility enterprises. The "popularity" of pub-

\*Also, member of the Ohio Public Utilities Commission. For additional personal note, see "Pages with the Editors."

## PUBLIC UTILITIES FORTNIGHTLY

lic service commissions and commissioners has a tendency to fluctuate with economic cycles. Any disposition by a regulatory commission to court popular approval by ignoring known economic facts would constitute a most dangerous course and would be a most insidious type of demagoguery. The refusal of commissions to resort to this sort of practice is generally acknowledged.

**T**HE record of the forty-eight state commissions, their members, and of their activity, needs no defense. The evidence is significant and convincing.

The legislatures of the several states have been responsive to the economic necessity for commission regulation. Consonant with the needs of the time, prior to about 1870 state commissions performed essentially advisory functions. From 1870 to about 1907 regulation concerned itself primarily with railroads, and to a lesser degree with telegraph. By 1907 the public interest required that public utilities generally should be subjected to regulation, and an enlargement and extension of economic control was provided.

The early creation by the states of railroad commissions to regulate railroads within their own borders led naturally to the necessity and demand for a Federal board to exercise regulatory powers in interstate commerce, and the passage by Congress in 1887 of the act to regulate commerce—the Interstate Commerce Act. At this date, 1887, there were regulating agencies in thirty different states.

The first chairman of the newly created Interstate Commerce Commission, Judge Thomas M. Cooley, who had already achieved recognition as a

jurist, on January 31, 1889, invited all states having railroad commissioners to a national conference to be held in Washington, D. C., beginning March 5, 1889, the day following the inauguration of President Benjamin Harrison. Realizing that clashes between state and national jurisdictions would arise, Judge Cooley's comments on this occasion were prophetic. He said: "I mention these things for the purpose of emphasizing the fact which is constantly before us in all our work, that in respect to all the railroad interests of the country—to the lines that you regulate and to the lines that come more particularly under our own supervision—it is of the highest importance that there should be harmony in the legislation of control, so that this system can be controlled as nearly as possible—as nearly as the local condition of the country will enable it to be controlled—harmoniously and as a unit."

**F**ROM this meeting in 1889, two things emerged which have given strength and direction to state commission regulation. First, the creation and beginning of what is today the National Association of Railroad and Utilities Commissioners, and, second, the birth of the principle of coöperation between state and Federal commissions—a principle which state commissions for more than a half-century have sought to preserve, and the successful application of which by both Federal and state commissions has done much to promote and encourage the growth and development of regulated industry, to preserve a dual and harmonious scheme of regulation, and to protect the public interest.



## FAIR PLAY FOR THE STATE COMMISSIONS

Embraced within the active membership of the NARUC are the members of forty-seven state commissions, of the Interstate Commerce Commission, the Federal Communications Commission, the Securities and Exchange Commission, and the public utilities commissions of the District of Columbia, Hawaii, and Puerto Rico. The objects of the association are "the advancement of commission regulation through the study and discussion of subjects appertaining to the operation and supervision of railroads, other carriers, and public utilities (using the terms 'carriers' and 'public utilities' in the broadest sense), the promotion of uniformity of regulations applicable thereto promulgated by the several commissions, the promotion of co-ordinated action by the commissions of the several states in the protection of common interests of the people of said states, relating to railroads, other carriers, and public utilities, and the promotion of coöperation of the commissions of the several states with each other, and with Federal regulatory agencies represented in this association."

Now, in general, because the case requires no more, what has been the record of regulation by the states?

Under regulation by state commissions, public utility enterprises—in a free and competitive economic system

—have enabled our people to produce and usefully employ more of the products and services of a public utility character than any other people on the earth. The American people, who represent but 6 per cent to 7 per cent of the world's population, produce and consume 50 per cent of the electric energy of the world. The American people have more telephones *per capita* than any other people. Only six countries in the world have more than 15 telephones per 100 of their population. As of January, 1949, there were 26.1 telephones per 100 of our population; Sweden had 22.1, Canada 18.8, New Zealand and Switzerland had 17.2 each, and Denmark had 15.3. And only in the United States are the telephones 100 per cent privately owned.

To what extent have the states been involved in this accomplishment? As of January 1, 1949, there were 38,200,000 telephones in the United States. The rates and services for most of these are the direct responsibility of a state commission. As of today, 80 per cent of the entire telephone plant investment of the Bell system is devoted to intrastate service and 80 per cent of all its operating revenues are intrastate revenues. As of November 30, 1949, there were 42,600,000 consumers of electric energy in the United States, 35,200,000 of whom were residential and domestic consumers, most of whom of necessity must look to



**Q** "THE responsibility for the approval of rate increases covering utility services to the householder and other ultimate consumers, made mandatory by postwar inflationary costs, has fallen directly upon the shoulders of state commissions. Such complaints as have arisen have . . . been directed at state commissions and state regulation."



## PUBLIC UTILITIES FORTNIGHTLY

state commissions for the permanence and security of their service. The rate which every consumer of natural gas must ultimately pay yet remains to be determined not by Federal but by local authority.

How has the consumers' interest been safeguarded by state commissions? An illustration will suffice. In a recent address<sup>1</sup> given by Francis X. Welch, managing editor of PUBLIC UTILITIES FORTNIGHTLY, he said:

"... we have all heard, from time to time, that public utility companies dominate the state commissions. Not long ago a high Federal government official challenged me to name one state commission that was not under the thumb of the public utilities it was supposed to regulate. To support his contention, he referred to a recent 10 per cent local increase in public utility rates—completely ignoring the fact that the food he was eating, and the clothes he was wearing had increased in price many times that percentage.

"I will not take your time correcting such an obvious error of itself. I would like, however, to point out the fact that right in your own telephone industry the state commissions have granted less than two-thirds of all the rate increases applied for since the postwar series of rate cases began, late in 1946.

"And here's the important part: In more than a dozen major rate cases, which have been appealed to the courts from orders of the state commissions, it has been the *courts* who have reversed the commissions *in favor of the*

*public utilities*, because the commissions refused to grant full rate relief. In not a single instance, in any substantial rate case, during this period *have the courts reversed a single state commission because it gave the utilities too much of a rate increase.*"

In my own state (Ohio) the only instance in which the public utilities commission has been reversed in a case involving rates during the past ten years was a case in which the commission was directed to increase the rates theretofore fixed by it.

STATE commissions, acting severally, and jointly through the NARUC, have been helpful in their authorship and support in the Congress of legislation designed to regulate phases of public utility activities which the courts had held to be beyond the jurisdiction of the states. They encouraged the creation of the necessary Federal commissions to administer those laws. As the vanquished in many legal battles with public utilities who successfully avoided regulation by the assertion of "no jurisdiction" because of the interstate character of their operations, state commissions generally welcomed and worked for complete, effective, and supplementary regulation by the exercise of the national power.

What they got, it now appears, far exceeded their expectations—and certainly exceeded their desires. So that there may be no misunderstanding, let it now be observed that in so far as Federal power needs to be exercised to fill the gaps in effective regulation, the association of state commissions supports its assertion.

The fact remains, however, that the

<sup>1</sup>Nebraska Telephone Association, Omaha, Nebraska, March 29, 1950.

## FAIR PLAY FOR THE STATE COMMISSIONS



### Proving Grounds of Regulation

**"S**TATE commissions have served and can continue to serve as proving grounds for the development of principles, ideas, and methods of regulation. The fact is that it was upon the proving grounds of the states that the basic concepts of regulation were tried and developed. Methods and principles which are acceptable today may prove to be ill-adapted to the problems of tomorrow."

state commissions today find themselves in a unique and undeserved position.

For three decades, and more, they sought to remove and were successful in overcoming the obstructions which the Supreme Court of the United States had held to exist as a hindrance to effective state regulation, but having overcome one set of "blocks" they now face the problem, by virtue of decisions of the same court, of attempting to prevent the same national power from making state regulation more cumbersome, less certain, and less effective in the public interest. The state commissions desire to "render unto Caesar the things that are Caesar's," but no more.

**I**N an address before the annual convention of the NARUC in 1925, Herbert Hoover, then Secretary of Commerce, said:

"Finally, my fellow citizens, may I

remind you that our government was devised in spirit to sustain a dual purpose—that is, to protect our people among nations by a great national power and to preserve individual freedom by local self-government. If we are to stretch the Interstate Commerce provision in the Constitution to regulate all those things that pass state lines whether there is necessity for it or not, we shall by that very means automatically absorb to Federal authority most of the government that lies within state lines, because our economic life has become so enmeshed that there is no longer that easy conception of our forefathers of what constituted interstate commerce. If we do not resist this extension, what becomes of that fundamental freedom and independence that can rise only from local self-government?

"The Federal government at Washington is already so overloaded with affairs that it cannot even now do

## PUBLIC UTILITIES FORTNIGHTLY

justice to the great diversity of local interest in our country."

**I**N an article captioned, "My Fight with the Power Lobby: State Boards Curbed—Is U. S. Board Next?", which appeared in an issue of *The New York Post*, October 27, 1949, Leland Olds wrote: "In January, 1929, the old *New York World* charged editorially that utility regulation had broken down. In midsummer of the same year, Governor Clyde M. Reed of Kansas, formerly chairman of the Kansas Public Utilities Commission and now the Senator Reed who voted against my confirmation, in an address to the national association of regulatory commissioners said that state utility regulation, after twenty years of operation, was nothing to be proud of."

Mr. Olds attributed the alleged "breakdown" in state regulation to two broad causes. First, because utility corporations had been successful in establishing a value basis of regulation and, "second, the utilities had succeeded in rendering regulatory commissions docile, in part by convincing them that their function was judicial, and in part by means of a more questionable nature." He further wrote that "the Federal Power Commission has taken the lead in making regulatory commissions what President Roosevelt once termed 'tribunes of the people.' It has served as a constant stimulus to state commissions to press regulation in the public interest."

It is not my purpose to discuss the question as to whether regulation should be placed upon an actual investment rather than a valuation basis. It is sufficient to say that state commis-

sions, as such, have made their full contribution in the application of either, or both, methods when in their judgment the public interest required such application. To them cannot be attributed the development of judicial concepts which, for the time being, may not have been in the public interest.

**J**OHAN E. BENTON, co-author of the legislation which created the New Hampshire Public Service Commission and to which he was appointed in 1911, and who from 1918 until the time of his death in 1948 served as general solicitor and advisory counsel of the NARUC, and who perhaps did more to stimulate regulation than any other individual associated with utility regulation in this country, both state and Federal, made the following observation in 1945 on the subject of rate determination:

"The California case (*Market Street Railway Case*, 89 L ed 1171),<sup>2</sup> was a case in which economic changes required a very great reduction in the rate base, to produce fares which were just to the public; but situations may arise in which the rate base should be radically increased, to do justice to investors. For example, if severe inflation shall occur, so that dollars shall shrink in purchasing power to a small fraction of the pre-war level, no one but an enemy to Capitalism would advocate that companies owning prewar properties should receive no more dollars for return than they were paid when they received their return in dollars of pre-war value. A fair return is just com-

<sup>2</sup> (1945) 324 US 548, 58 PUR NS 18.

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## FAIR PLAY FOR THE STATE COMMISSIONS

compensation for service rendered in money of the time when rendered.

"Severe inflation would, accordingly, compel an adjustment upward either of the rate base, or of the rate of return, for companies which built in preinflation years, or before inflation has run its course, to give just compensation. But to meet such a development by increasing rates of return would involve great variations in rates of return, as between companies owning properties built in different times. Such variations the public would find it difficult to understand. Some companies might receive two or three times the rate of return that other companies would receive.

"THE situation, if inflation should occur, would not be clear cut. Companies would own some prewar property, some built before inflation had proceeded far, and some much later. It would probably be easier for the commission to make whatever adjustment justice may require in the rate base than to attempt to meet the equities of the situation by using varying rates of return.

"Whatever way might be taken, plainly adjustment in some way would be inevitable. This would be required

not only in justice to investors but in obedience to economic law. Investors simply will not buy utility securities, if they find that progressive inflation operates to destroy progressively their right to receive just and reasonable compensation for the service their properties render." It is altogether likely that state commissions will continue to employ such methods as in their judgment will do justice under the particular circumstances.

Particular abuses have arisen. They will continue to arise. Certainly no one can justifiably condone them, but they should not be employed to destroy an institution which is itself sound.

BUT of state regulation, what did Governor Reed say on the occasion to which Mr. Olds referred? Among other things (as reported in the *Proceedings of the Forty-first Annual Convention, National Association of Railroad and Utilities Commissioners*, at pages 346, and following), he said:

"The official responsibility delegated by the people of their states to those present is the regulation of rates and service rendered by public utility corporations, including common carriers. Our present system of regulation has



"... the state commissions today find themselves in a unique and undeserved position. For three decades, and more, they sought to remove and were successful in overcoming the obstructions which the Supreme Court of the United States had held to exist as a hindrance to effective state regulation, but having overcome one set of 'blocks' they now face the problem, by virtue of decisions of the same court, of attempting to prevent the same national power from making state regulation more cumbersome, less certain, and less effective in the public interest."

been in effect and on trial for about twenty years, and if there is anyone who believes that it is an unqualified success I have not heard of him. As for myself, I have grave doubts that, under existing conditions, it can be called successful in any true sense. *The failure, however, is from no weakness in the theory but from causes unforeseen at the time of enactment of this sort of legislation. Much if not most of the cause of failure lies in the interference with state power by the Federal courts, led by the Supreme Court of the United States.*" (Emphasis supplied.)

"No one today holds to the extreme view that resulted in the Civil War; namely, that states were sovereign to the extent that they might at will disrupt the Union. But I am not yet ready to subscribe to the doctrine that states are so weak and helpless as to render it necessary to take away their power to handle matters which in their essence belong entirely to state and not to national government. The necessity of preserving the powers of the states in this respect has not been stated anywhere better than by that great historian, John Fiske, when in the *Critical Period of American History*, he said:

"If the day should ever arrive—which God forbid—when the people of the different parts of our country shall allow their local affairs to be administered by prefects sent from Washington, and when the self-government of the states shall have been so far lost as that of the departments of France, or even so far as that of the counties of England—on that day the progressive political career of the

American people will have come to an end, and the hopes that have been built upon it for the future happiness and prosperity of mankind will be wrecked forever.'

"*Steady encroachment by the national government, partly by congressional enactment but largely by judicial decisions, is having the effect of robbing the states not only of their power but their strength and causes apprehension to arise in the minds of thoughtful people.*" (Emphasis supplied.)

ENCROACHMENT continues, albeit based on factors in addition to those of which Governor Reed spoke. Mr. Justice Jackson, with whom Mr. Justice Frankfurter joined, in his dissent in *Federal Power Commission v. East Ohio Gas Co. et al.*, decided January 9, 1950,<sup>3</sup> clearly noted this fact when he wrote:

"If this were a case of applying an explicit policy of Congress to one recalcitrant gas company, there would of course be no dissent. But if it were such, we would not be likely to find the state of Ohio and her utility commission, the National Association of Railroad and Utilities Commissioners, and public authorities of several states, including some with notable records for protecting the public interest, here helping the utility. This alliance of state authorities against the Federal Power Commission suggests that there must be more to this case than meets the eye.

"The key to an understanding of the Federal Natural Gas Act is its purpose to supplement but not to supplant

<sup>3</sup> 82 PUR NS 1, 70 S Ct 266.



## FAIR PLAY FOR THE STATE COMMISSIONS

state regulation. . . . That is what the state authorities active in promoting the legislation seem to have believed had been accomplished. . . .

"After reviewing the history of the Natural Gas Act, we have said that 'Congress meant to create a comprehensive scheme of regulation which would be complementary in its operation to that of the states, without any confusion of functions.'

"Congress may well have believed that diversity of experimentation in the field of regulation has values which centralization and uniformity destroy. As Mr. Justice Brandeis said, 'It is one of the happy incidents of the Federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.' New State Ice Co. v. Liebmann, 285 US 262, 311.<sup>4</sup> Long before the Federal government could be stirred to regulate utilities, courageous states took the initiative and almost the whole body of utility practice has resulted from their experiences.

"**W**E must not forget that regulatory measures are temporary expedients, not eternal verities—if indeed they are verities at all. Certainly one of the matters on which the states might well be indulged—the right to an opinion of their own—is as to the accounting methods of a utility whose whole property and business being accounted for is within the state. Out of their diversity of practice and experience emerge pragmatic tests. . . . It must be remembered that closer than

any Federal agency to those they regulate and to their customers are the state authorities, whose mechanisms are less cumbersome and whose principles can much more quickly be adjusted to the changing times.

"We should not utilize the centralizing powers of the Federal judiciary to destroy diversities between states which Congress has been scrupulous to protect. If now and then some state does not regulate its utilities according to the Federal standard, it may be a small price to pay for preserving the state initiative which gave us utilities regulation far in advance of Federal initiative.

"I think that observance of good faith with the states requires that we interpret this act as it was represented at the time they urged its enactment, as its terms read, and as we have, until today, declared it; *viz.*, to supplement but not to supplant state regulation. What amounts to an entrapment of the state agencies that supported this act under the representation that it would not deprive them of powers but would only make their powers effective will probably not make it easier to get needed regulatory legislation in the future."

**S**TATE commissions have served and can continue to serve as proving grounds for the development of principles, ideas, and methods of regulation. The fact is that it was upon the proving grounds of the states that the basic concepts of regulation were tried and developed. Methods and principles which are acceptable today may prove to be ill-adapted to the problems of tomorrow. Many students of regulation as of today are questioning the

<sup>4</sup> PUR 1932B 433.



## PUBLIC UTILITIES FORTNIGHTLY

desirability of many regulatory practices which were accepted without question during the prewar and war periods.

Until we attain the claimed wisdom of the "economic planner" there will remain a large field for social and economic experimentation. It was from the trials and errors of state regulation, to a greater degree than some care to concede, that we have the measure of uniformity which we enjoy today. Errors and failures on a national level are difficult to reverse. Experimentation meets greater resistance. Local effects and local interest work more effectively and directly upon local practices and policies. Local interests have but slight effect upon national policy. These considerations, aside from considerations of sovereignty or "rights," make regulation at the state level desirable.

And finally, with no known exception, the men and women who constitute the public service commissions of the states have faith in the efficacy of regulation. They believe that regulation can, and does, provide a fair and equitable balance among the consumer, investor, and community interests, without potential threat of, and perhaps overt, "competition" from tax-free, publicly owned institutions.

IT was this faith in the soundness of the principle of regulation that gave impetus to the movement which sought to supplement state regulation by national legislation. It was their

hope (now blasted) that the legislation which they eagerly worked for would provide a truly Federal and harmonious pattern of regulation.

It is of men and women of such faith in the American concept of public utility regulation that the national association of regulatory commissioners is composed. It is a mean and ill-intended charge that they or their conventions are "overrun" by regulated utilities. The charge has no foundation in historical fact. The fruitful heritage of a half-century of NARUC activity is not likely to be destroyed by any such attacks.

THE fact yet hopefully remains, despite the constant erosion of state authority by judicial determination and Federal administrative action, that the impact of public utility regulation by the state public service commissions directly affects every home and family and economic enterprise which uses public utility services.

If their activity has contributed to the great social and economic progress of the past, if they have contributed to the independence, the freedom, and the comforts of the people of the states to whom they are directly responsible, if their very existence has been an obstruction to the growth of systems alien to our democratic processes, and if, because of their closeness to the people, bureaucratic domination has been lessened, then, in the public interest, regulation on the local level should be strengthened and encouraged.



## The Electric Utilities Look Ahead

A veteran executive outlines the principal danger which confronts the electric industry in the years ahead. It is not a matter of special plea but a question of the awakening of others to a threat involving broad public interest.

By H. P. LIVERSIDGE\*

CHAIRMAN, PHILADELPHIA ELECTRIC COMPANY

**A**T this mid-century mark few, if any, would dispute the fact that the electric utility industry has revolutionized the industrial, commercial, and living habits of the world we live in. In the relatively brief span of fifty years the practical application of the magic of electricity has transformed the world in more ways than any other discovery of modern times. It has been the key to thousands of inventions which in turn have resulted in hundreds of new industries and millions of jobs in fields that were unknown in 1900. Electricity truly is a twentieth-century version of Aladdin's lamp lighting the path to a new and greater era in the history of civilization.

It is always pleasant to contemplate past achievements. But it is more rewarding to ponder the future, especially so in the case of electric utilities, for, while the benefits of electric power are limitless, the future of the industry as we know it today is an unknown quantity.

This multibillion dollar enterprise, which is the bread-and-butter industry for millions of Americans, is now engaged in its own "Operation Crossroads." It must either move forward with renewed vigor or fall into the abyss of government ownership and all of the evils implied in the nationalization of any business, or profession. Words alone will not stem the tide toward the nationalization of this vital segment of our economy. It requires enterprising performance in our rôle

\*For additional personal note, see "Pages with the Editors."

## PUBLIC UTILITIES FORTNIGHTLY

as a public servant as well as action on a united front by the industry; it requires that they be implemented by public opinion educated to the dangerous trend indicated by government competition with private industry.

**D**EMANDS for the defense of "free enterprise" frequently fall on deaf ears, as we well know. It is the opinion of this writer that the term has become frayed at the edges. It has ceased to be singular in meaning, in fact has come to imply all things to all men. This perversion in usage has inevitably weakened the term "free enterprise" as a towering symbol of the American system of government. Similarly, the differentiation between public utility, indicating an investor-owned operation, and public power service, denoting a government-owned electric utility project, is largely lost to many millions of people. They fail to discern the difference.

Traditionally "free enterprise" is synonymous with individual enterprise in that it should reflect the sum total of the accomplishments of individual human endeavor. Since the founding days of this nation that concept has provided the inspiration and incentive which fire the will to succeed individually, and collectively. It is the strength of the American form of government and, conversely, its absence points up the basic weakness of Socialism and Communism.

The electric utility industry must concern itself with these things in order that it may successfully extricate itself from the morass of misconceptions implanted in the minds of Americans by public power propagandists.

Thus far the public power advocates

have done a better selling job for their cause than have the private electric utilities for theirs. This point was emphasized in a recent survey on the subject of Socialism conducted by the Psychological Corporation, which disclosed that although 75 per cent of the people say they are against Socialism in the United States, they still favor certain measures which fall within their own definition of Socialism. It notes, for example, that the TVA and government ownership and operation of public utilities is favored by 66 per cent of those who say they are against Socialism. This provocative survey concludes that Socialism as a word or symbol, in the public mind, and Socialism in terms of specific steps in government control, are not necessarily the same. People may say that they are against Socialism but still favor specific socialistic measures.

**"E**VEN though Socialism may be a scare word to 75 per cent of the people, it does not follow that this fear will be translated into the fear of specific measures such as government ownership of public utilities, government housing, socialized medicine, and the like."

The prevalence of this confused thinking on every level of society is inimical, not only to the future of electric utilities, as a private industry, but also to the basic tenets of the American concept of a government which honors and upholds the right of individuals and groups to engage in business without fear of government competition.

The problem of government encroachment into the field of private industry is the gravest which has con-

## THE ELECTRIC UTILITIES LOOK AHEAD

fronted electric utilities in their little more than a half-century of growth. There is increasing evidence that the seeds of Federal ownership, which had their inception in the early 1920's, have today reached such proportions and acquired such support, both inside and outside the political arena, that one is prompted to speculate on how soon the entire industry will be engulfed here, as in England.

The unfavorable divergence in public opinion regarding utilities, particularly during the past decade, has largely been due to the preponderance of articulate exponents of government ownership of utilities in our official life.

Their untiring efforts have successfully influenced many millions of people into believing that government ownership and direction can do a better job than can be done under private ownership. It is this insidious form of benevolent despotism that constitutes a grave threat to our American system of government.

When a government deliberately embarks on a campaign of competition with a private industry, a little freedom is lost. When a little freedom is lost, the door is opened to the eventual loss of all freedom for all business and for individual human enterprise as well.

Government operation in the realm of private business is demonstrably

bad business, bad for the nation, bad for the taxpayers.

**G**OVERNMENT encroachment in the electric light and power business is a critical issue to our established principles of government. The seriousness of the situation cannot be minimized, for the very existence of the industry as an investor-owned, business-managed, tax-paying enterprise is threatened. Not only do companies operating in or near river valley authorities or in areas where REA is active have reason to be concerned. All utility companies are threatened, even municipal plants.

Although utilities serving metropolitan areas in the East do not face any early prospects of direct competition from government-owned and -operated hydroelectric projects, it is a subject which should not be dismissed. Actually the effects of Federal projects are being felt through the loss of industries that have left some areas to take advantage of subsidized power rates which are so low in cost that local companies are totally unable to compete with them. The ultimate result, if this trend is not halted, not only means that many cities will experience a greater difficulty in attracting new industry but may also lose established business with consequent economic dislocation of existing industrial areas.

In 1932, no one was very much con-



**I***"In the relatively brief span of fifty years the practical application of the magic of electricity has transformed the world in more ways than any other discovery of modern times. It has been the key to thousands of inventions which in turn have resulted in hundreds of new industries and millions of jobs in fields that were unknown in 1900."*

## PUBLIC UTILITIES FORTNIGHTLY

cerned about the few hydroelectric projects operated by the government. The capacity of all of them, combined, was less than that of the Philadelphia Electric's hydro plant at Conowingo, Maryland.

However, in the relatively few years since that time, the government has firmly established itself in the power business as well as in other businesses. Today, government power stations in operation, or under construction, number 212. Their combined capacity of 11,000,000 kilowatts is approximately 20 per cent of the nation's total power supply. Proposals before Congress would raise the number of Federal plants to 625, with more than 44,000,000 kilowatts of generating capacity. This is seven times the present capacity of government plants, and only a little less than the current generating capacity of all investor-owned electric light and power companies.

**T**HIS great increase in federally financed generating facilities is only part of the story, for in addition there is being planned a vast network of transmission lines to blanket all sections of the country. In many instances these prospective Federal transmission lines will parallel existing facilities of privately owned companies.

It is with the growth of this doctrine that the entire business-managed utility industry must contend if it is not to be legislated out of existence. It is a problem of vast importance to our whole economy for absolute government dictatorship of any one industry clearly portends eventual government domination of all critical industries. Surely there is cause for alarm when the pattern is so apparent. The whole

fabric of Socialism is woven through the gradual deprivation of human rights, including that of the individual, singly or collectively, to engage in business.

During the early period of TVA development the slogan "yardstick" was used to describe the need for its creation. That term, however, has long since been disregarded in favor of the more seductive slogan of "cheap power"—and it is cheap, but only to the people in the area served, and they are not paying the actual cost of the energy. The actual cost is underwritten by the taxpayers throughout the nation.

Public power isn't cheap in England and elsewhere in Europe and it isn't cheap in the United States. A report on a "Federal Power Policy Study" filed with the Committee on Public Works of the House of Representatives by the Committee on Appropriations, which sponsored the study, bluntly states: "In general, Federal power is not cheap, but can be made to appear so by allocating substantial portions of the investment and expenses to other than power."

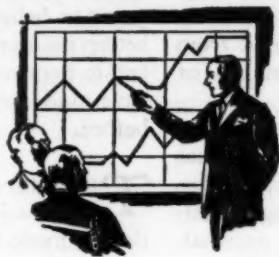
This study committee estimated in its final report that, if the TVA counted in its costs of power production the same character and amount of expenses as would be required of a business-managed company, rate increases of 135 per cent would be required to cover costs. If such increases were made in the cost of electricity in Tennessee it would be the highest of any state in the nation, instead of the lowest.

**T**HE failure of the public power policy in realizing the goal set by



## THE ELECTRIC UTILITIES LOOK AHEAD

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### For Want of a Nail—!

**“W**HEN a government deliberately embarks on a campaign of competition with a private industry, a little freedom is lost. When a little freedom is lost, the door is opened to the eventual loss of all freedom for all business and for individual human enterprise as well. Government operation in the realm of private business is demonstrably bad business, bad for the nation, bad for the taxpayers.”

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its advocates is further illustrated by the fact that at the end of 1948, Nebraska, the only wholly public power state in the Union, had made electricity available to only 52 per cent of its farms, and Tennessee, the home of TVA, to only 58 per cent of its farms.

Contrast those figures with the fact that electricity is available to 5,000,000 farms in the United States for an over-all national average of 75 per cent. In the 5-county area served by Philadelphia Electric Company, 95 per cent of the farms are electrified, and service is available to the remaining 5 per cent at a very reasonable minimum charge.

More and more people are coming to realize that the threat of nationalization is not the exclusive problem of the utilities. The steel industry was threatened. The medical profession is currently under attack. And should any one group fall to nationalization,

we may well expect others to follow. Government intervention into the utility field sounds the danger signal to all business.

A growing awareness of this problem among people in every strata of society, and especially members of opinion-forming groups, is an important forward step toward the preservation of the American idea of private enterprise as against government ownership.

Contrary to the popular fallacy, the farsighted business-managed utilities believe in the sound economic development and conservation of the nation's natural resources. They recognize that stream control aimed at flood prevention, water supply, reclamation, and navigation involves functions of government and that in this connection electric energy often can and should be developed. However, private utilities are of the firm conviction that



## PUBLIC UTILITIES FORTNIGHTLY

existing electric facilities should not be duplicated, nor should investor-owned companies be prevented from making their own developments of hydroelectric projects.

**T**HE utilities do not plead only what seems to be their own special interests. The matter of saving a business—any business—from nationalization is important only because saving it helps to preserve freedom for every American citizen. This is true of the railroads, the doctors, communications, the steelmakers, or any other group whose particular field of business is being invaded by government and is being nationalized by stages.

No one, not even the public power proponents, can detract from the magnificent record of service the electric utilities have made to the nation in war and in peace. Generating capacity, output, and reserve margins have increased substantially since VJ-Day and are equal to every foreseeable demand. Moreover, the electric utilities have helped spearhead the movement which made possible the enormous strides in the new fields of television, advanced electronics, and the peaceable uses of nuclear energy. In this respect, business-managed utilities have opened a door of opportunity for a greater exercise of our freedom of choice in the ever-widening horizons of industry.

Public acceptance of the electric light and power industry, which gained momentum following the first World War, has broadened appreciably in recent years. Opinion polls show high customer satisfaction with electric service, and with the utilities that pro-

vide it. On this basis, there is justifiable cause to believe the industry is in a better position today to move ahead and to improve its energy output, revenue, and earnings record than ever before.

**T**HE future of the utilities is interwoven with the basic elements of the economic life of the nation. They are in a key position with everything to make for success. Yet the industry must be ever cognizant of the fact that this favorable position could prove its undoing unless utilities collectively recognize the increasing responsibilities of service which will be demanded of them as time goes on. It is a certainty that demands for more exacting service standards will keep pace with the increasing needs for electric energy. It is false economy which dictates restriction of customer service, and such a policy would ultimately cost far more than could possibly be saved by its elimination.

It is but a short step from self-satisfaction to complacency and when an industry indulges in this common failing it invites disaster. Customer contacts and the maintenance of customer good will is essential to avoid that serious pitfall. The encouragement and preservation of this good will must start at the top of the company, with those who are just as imbued with a desire to render individual customer service as the man who is called out to do the job. Mere lip service doesn't help the housewife whose electric service disappears a half-hour before dinner. Self-congratulatory advertising does not make the man of the house any happier when his radio or television fails because of a power interruption.

## THE ELECTRIC UTILITIES LOOK AHEAD

For years the electric utility industry has been urging people to work and live electrically. It has succeeded in realizing this objective to a degree that has carried the demand for energy far beyond the fondest hopes of even the most optimistic prophets.

Now that this idea has been sold, utilities must face the fact that greater use of power is accompanied by a demand for higher standards of service. What the industry did for a customer who used only a few lights and appliances years ago is woefully inadequate today, and so will present standards diminish in contrast with the exacting service requirements in the years ahead.

As designs are improved and manufacturing standards go higher, interruptions affecting customers will, as a matter of course, lessen. Conversely, service demands will be more exacting. It is vitally important to the future well-being of the industry that ample budget provisions be made to permit the handling of emergency jobs as opportunities to live up to an ideal, rather than to relegate this phase of the business to a money-making side line, where each service call becomes a potential item of profit.

It is a trite axiom that the future belongs to youth. It always has. There is nothing new nor original

about that conclusion. I much prefer to believe that the future belongs to those gifted with ability, initiative, courage, and determination not only to explore new fields of business and industry but likewise to defend and to preserve the system of government that makes possible their individual and collective progress.

Change is the price of progress. We have seen it in the great transition in our modes of transportation, in our means of communications, and in the many and varied conveniences which help lighten the burden of our daily lives, at home and in the shop. There is, however, one constant which prevails throughout the most significant industrial and commercial changes wrought in modern times which is manifest to everyone, and that constant is power: specifically electricity.

Not long ago, Dwight D. Eisenhower, speaking to the American Newspaper Publishers Association, said, "We must stand for individual freedom and for those things that are going to preserve the political and economic freedom of each one of us. We must combat relentlessly any needless invasion of those freedoms, because the attack on any freedom will never, in any country, be isolated and individual. It will be a creeping thing that will be on the door front and will attack all."



**Q** "The future of the utilities is interwoven with the basic elements of the economic life of the nation. They are in a key position with everything to make for success. Yet the industry must be ever cognizant of the fact that this favorable position could prove its undoing unless utilities collectively recognize the increasing responsibilities of service which will be demanded of them as time goes on."

## PUBLIC UTILITIES FORTNIGHTLY

This summation of a difficult question strikes home. It is a cogent analysis of the situation which every American should translate into action. Our system of government finds its greatest strength in a grass-roots understanding of problems. It is precisely at this local level that the electric utilities find their greatest opportunity, and greatest challenge. Community understanding leads to statewide understanding and thence to a more true appreciation of the situation on the national level.

OUR industry has pioneered in this direction. It does not suggest that its efforts are a cure-all for the ills which beset utilities, but does propose that its endeavors are a step in the right direction and deserving of the active support of all industry members. This far-reaching educational campaign embraces the activities of the Edison Electric Institute, the Electric Companies Advertising Program, the National Association of Electric Companies, and the year-old Public Information Program.

All of these groups perform functions which are important to the overall picture. However, it is in the local communities that we must succeed before success on the national level can become an accomplished fact. Individual companies must achieve public acceptance by living up to their responsibilities to the publics they serve—the customers, the investors, the employees, and the nation.

The best defense is a good offense, and the creation of a cordial relationship between the industry and the public is of the utmost importance.

Utilities, and all other industry as well, must sell and resell the concept of private enterprise, but they must first be sure they have something to sell. Moreover, they should take frequent inventory of their wares and their sales methods so that they constantly measure up to the needs of the public, and are not outmoded.

The prime product which utilities have to sell, and must sell, is service—personalized service. This is the keystone upon which the industry must build in order that it may merit the caliber of public relations which augurs for a more complete understanding of the issues confronting electric light and power companies.

By and large, utilities have improved their public relations position. They have earned the right to this good opinion because, in providing an indispensable low-cost service they have likewise learned the supreme importance of securing and maintaining the good will of the publics they serve. Recognition of this fact revitalizes industry thinking and constitutes a dynamic safeguard for the preservation of private enterprise.

In the final analysis it is in the arena of public opinion that the problems will be resolved. I am convinced that facts are our most potent weapons in the war of ideas, and that if we use them wisely then the business-managed, tax-paying electric utility industry in these United States may not only weather the onslaught of those whose one obsession seems to be total nationalization, but they will move forward to greater contributions to the social and economic life of our nation.



## Public Information Program

*During recent years there has been increasing recognition throughout the electric utility industry of the need for bringing more information to the public concerning utility development and its regulation under our American system of private enterprise. An important movement was started a little more than a year ago within the electric industry by a group of operating company executives who wanted to stress the "grass-roots" approach—reaching the industry's customers at the local level of actual company operations.*

By JAMES W. PARKER\*

PRESIDENT, THE DETROIT EDISON COMPANY

A SMALL group of power company executives — feeling the need for a factual information program about the electric industry and determined to do something about it—met in Chicago a little more than a year ago and arrived at a plan of action to inform the public of the facts about the industry.

There were ten men at the meeting, only a sprinkling of the industry. We had one thing in common—the belief that the people should be told of the rapid growth of public power as a threat to the business-managed electric industry and the traditional ways of American business.

We formed the Public Information Program, popularly referred to as PIP. We were fired with a desire to

do something about the paralysis that overtakes an industry when the tentacles of Socialism get a hold. This idea has made a lot of sense to many companies since that time. Today more than half the industry is participating in the program.

We feel it will grow, because the threat that we are facing eventually comes to every company's back door. It is well known in the Northwest; it is a familiar story in the territory of the Southwestern Power Administration; and the people of the new Southeastern Power Administration are just learning. New England is getting a barrage of public power propaganda. And so it goes throughout the nation, not always, necessarily, in the form of valley authorities that are the subject of so much public attention. Public debate of the issues is our democratic

\*For additional personal note, see "Pages with the Editors."

## PUBLIC UTILITIES FORTNIGHTLY

way of arriving at decisions. The new agencies for marketing public power, which evolve into power administrations with transmission systems and steam-generating plants, are more devious and sly. They achieve by backdoor methods a goal that could not be reached under the light of public debate.

**P**RESENT at the first meeting were J. B. Thomas, president of the Texas Electric Service Company, Fort Worth, who was named acting chairman of the steering committee; Charles E. Oakes, president, Pennsylvania Power & Light Company, Allentown; Philip H. Powers, president, West Penn Power Company, Pittsburgh; George M. Gadsby, president, Utah Power & Light Company, Salt Lake City; J. E. Corette, vice president, Montana Power Company, Butte; Kinsey M. Robinson, president, The Washington Water Power Company, Spokane; J. E. Loiseau, president, Public Service Company of Colorado, Denver; Grover C. Neff, president, Wisconsin Power & Light Company, Madison; Louis V. Sutton, president, Carolina Power & Light Company, Raleigh; and myself.

For the past year I have served as chairman of the steering committee and as such I have had a grandstand seat watching this program grow in membership and results.

One result I find in looking over the annual reports of the companies this year: More and more contain statements drawing attention to the increasing threat of government power in competition with private industry.

The statement of another utility executive, T. E. Roach, president of

the Idaho Power Company, seems to me of especial significance since his company has been an outstanding example of the government working in harmony with private industry for the good of the people of the Snake river region.

Mr. Roach discussed the expansion of the company under the private enterprise system and included this comment:

In the case of Idaho Power, therefore, no case can be made for government encroachment . . . The drive to socialize the electric power business has become a national rather than a local or regional problem. Its future course will be decided by Congress and it behooves every investor in the business-managed electric industry to actively use every proper means to halt the trend toward government ownership and operation of the industry.

**T**HAT trend is progressing rapidly. We do not have to take the word of some member of the industry, who might be accused of having a biased viewpoint. We have the word of Secretary of Interior Chapman himself. He told the National Rural Electric Coöperative Association convention in Chicago:

The department is now operating and marketing the largest aggregate of hydroelectric capacity in the world . . . In the meantime, the Department of Interior is moving ahead at a record rate in setting up facilities for the trunk-line transmission of energy from power plants now operating or under construction.

Thus you can see that ambitious public power men are working hard at their task. Their tools are considerable, and not the least of these is a





### The False Alarm of Power Shortage

*"... ambitious public power men are working hard at their task. Their tools are considerable, and not the least of these is a propaganda task force that cries out over the land about 'shortages,' 'monopoly power,' and 'cheap public power.' Their cry is so loud and steady that they give the impression that the public is clamoring for more public power."*

propaganda task force that cries out over the land about "shortages," "monopoly power," and "cheap public power." Their cry is so loud and steady that they give the impression that the public is clamoring for more public power.

This is hardly the case. Actually, this disturbance raised by public power advocates comes from between one-fourth and one-fifth of the population, according to a reliable survey.

We in PIP believe that unless something is done to inform the people of the facts about the industry—to combat the reckless propaganda warfare by this little corps of eager men—the people of this country will awaken too late to the fact that this industry is nationalized. It may be under the name of public welfare, welfare state, or fair deal, or a number of other high-sounding phrases. But, it adds up to the socialization of an industry. And once the disease spreads over one industry, it turns to others.

PIP is operating on three levels—local, regional, and national. Nothing is done to interfere with the local press relations problems of a company. Background speech material, press and employee information are provided as a supplement to the local activity.

The regional meetings are perhaps the most important phase of this program. There are now four regional groups, the Mid-Atlantic, Inter-Mountain, East North Central, and West North Central. Others are being formed.

At these monthly round-table meetings of executives, ideas are exchanged for meeting the problems of the area. A coördinated program is drawn up to provide information about the industry to the public.

One of the most important phases of the regional meetings is the development of ways to inform employees of the facts about their company and the industry. This seems to be a basic job, so that the employees can talk in-



## PUBLIC UTILITIES FORTNIGHTLY

telligently to the customers. It is a startling fact to me that a survey shows that only 10 per cent of the customers of business-managed companies recall having conversations with employees about the company. One customer in every five does not realize that he is served by a private company. These uninformed customers favor government-subsidized power in the mistaken belief that they are now receiving this type of service. This is where an educational program can be most effective.

Stimulated by these regional meetings, a number of companies have taken an increased interest in telling their story to employees through forums, meetings, and pamphlets. We have found that employees welcome this information.

A regional chairman and secretary are chosen and they are responsible for the programs and the continuity of the meetings. The discussions range over employee information, stockholder and customer relations, plant tours, press and radio contacts, and coöperation with allied industries.

**N**ATIONALLY, the program is directed by the steering committee. The story of the power industry is told through every medium of public information. Cartoons by Ding Darling, well-known foe of Socialism, with texts by Don Herold, are provided to newspapers.

The program is carried out by Bozell & Jacobs, Inc., a public relations and advertising firm that has been in the utility field for thirty years. The work is directed from the New York office, and offices in ten other cities give assistance. Central Surveys,

Inc., is the survey organization.

PIP was not formed just to be against something. In a statement of principles adopted by the participating companies, we say:

We stand foursquare for the preservation and strengthening of the American system of equal opportunity for all.

We believe the American free enterprise system can provide more benefits for more people than any alternative system, existing or proposed.

We believe in the sound economic development, conservation, and use of the natural resources of the nation in the general public interest.

We believe that the same policy of democracy should apply to all industry; that is, government should not in a proprietary manner perform functions that industry is fully capable and willing to perform.

We believe that maximum benefits will accrue to the nation through the coöperative efforts of government and the investor-owned electric utility industry.

This last statement is to me one of the most important. Business and government working together for the people, in the traditional American way, have made this country great. And the business-managed power industry again is building up an adequate reserve for national defense. Government in competition with business runs counter to our free enterprise system and can do untold damage to our economy.

**I**N an effort to bring some element of harmony into this scene, the industry is working in coöperation with the Water Resources Policy Commission on the formation of a sound Federal power policy. A declaration of principles as a framework

## PUBLIC INFORMATION PROGRAM

of government operations is vitally needed. This is particularly true since there is not now a power shortage in the nation, and 95 per cent of all the occupied homes of the country are supplied with electricity.

I do not believe that the best interests of the public are being served when the Interior Department enters into alliances with super coöperatives to obtain REA funds for transmission lines and steam-generating plants that compete with established systems.

Super co-ops that compete directly with existing power systems are cropping up in Michigan. The most flagrant example of the government's entrance into the transmission business, however, is in the Southwest. REA has approved loans of more than \$40,000,000 to super coöperatives of

that area for generating plants and hundreds of miles of transmission lines.

The Southwestern Power Administration has contracted to purchase the entire output of these big coöperatives and has leased the lines for forty years. Thus the SWPA achieves by subterfuge what it could not do by direct methods. When SWPA went to Congress for funds for transmission lines, the request was rejected.

These are the schemes that must be aired, along with the notion that public power is cheap. It is *not* cheap. I believe that if these facts are understood, the people will decide in favor of the free enterprise system as against government ownership and domination. But we must be told the facts, and that is why I believe in PIP.

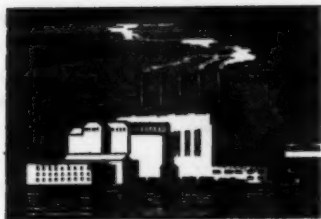
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**"I**n my opinion there is a great deal of myth in what is said and written about lack of competition in this country. You get the impression from some things you read that we have less competition than we used to have; and yet there is very good evidence that the opposite is true. Our economy is much more competitive than the economies of western Europe from which it sprung—and we are moving toward greater competition.

"The test of competition does not lie in theory but in fact. The test of competition is opportunity. Can buyers find alternative sellers? Can sellers find alternative buyers? Can people who want to do so go into business for themselves, make a living, and progress?

"Well, let us look at the record. It shows that the number of firms in the United States is increasing at a faster rate than the population. In 1900, there were twenty-one firms for every thousand persons. In 1947, there were twenty-six for every thousand. There are now some four million private enterprises in this country. And note this, 95 per cent of them have fewer than one hundred employees. Furthermore, there are now 20 per cent more individual enterprises than there were before the war."

—EUGENE HOLMAN,  
President, Standard Oil Company  
(New Jersey).



## The Welfare State in Motion

*Has the public come to look upon the status of public utility as a mere prelude to eventual conversion to public ownership? While there is neither economic nor legal reason for such a viewpoint, there is danger that a popular pattern of public thinking can slip into such a fallacious groove by default, unless the hoax of the "welfare state" is exposed.*

By EMERSON P. SCHMIDT\*

DIRECTOR, ECONOMIC RESEARCH DEPARTMENT, CHAMBER  
OF COMMERCE OF THE UNITED STATES

THE welfare state is on the march. It moves in many directions all at once. The expansion of the "public utility" concept is not overlooked. The members of the Joint Congressional Committee on the Economic Report have split into opposing camps over a committee staff proposal that the steel industry be examined with a view to determine whether or not it can be labeled "an industry affected with a public interest." While its chairman, Senator O'Mahoney, vigorously denies that this will mean government fixing the prices of some thousands of varieties of steel, Senator Taft, taking a small look ahead, sees that this is what would be involved.

Once a business is declared a public utility, it always raises in the breasts of many the hope of public ownership

a little later. If steel gets the official label, it will be only a matter of time until other industries will fall under the "affected with a public interest" ax. The welfare state means more and more intervention in the private lives and business affairs of all Americans. For this reason it is important to reexamine the nature and character of this new organism to see what it may mean.

### *The Welfare State versus Human Welfare*

HOWEVER noble the goal may be, if the method is wrong the goal will not be attained. In Ethos, a mother, pining over the plight of her infant son, heard that water was bad for him. She gave him only whiskey to quench his thirst. After the autopsy the doctor said, "The mother meant well, but she didn't know what well means."

\*For additional personal note, see "Pages with the Editors."

## THE WELFARE STATE IN MOTION

Dispute over method and means is endless, even among those who completely agree on objectives. The unification of Europe has been an aspiration of peace lovers for a long time. Hitler offered to unify Europe — we objected to his methods.

Ralph Waldo Emerson said, "The end preëxists in the means." This was a learned way of saying that whether we attain our goal is inseparably determined by what methods and means we employ.

The disputes over the welfare state are not over welfare, but over the wisest method to achieve it, and particularly over the degree of force and compulsion that is necessary or desirable to gain our ends. From ancient times the wise men, the men we remember and quote, have told us that human well-being and contentment rest largely on forces from within the individual. The Bible, concerned from cover to cover with human beings and human welfare, contains scarcely a thought or a sentence which a welfare statist could quote in behalf of his method for attaining welfare.

### *Even the Welfare Statist Can Quote And Misquote the Constitution*

THE welfare statist, experiencing a growing uneasiness about the soundness of his philosophy, keeps searching and quoting the Constitution to justify the expansion of the state. President Truman, in support of one of his programs, recently said:

For many generations we have recognized that there are legitimate rôles for the government to play in protecting our people from economic injustice and hardship. Our founding fathers explicitly stated this. In the

preamble to the Constitution of the United States, it is declared that this government was established among other reasons to "promote the general welfare."

In so saying, the President not only misquoted the Constitution, but reinterpreted it to make it appear to conform to the ideas of the welfare state. Actually, what the preamble says is that "We . . . the people . . . in order to . . . promote the general welfare . . . establish *this Constitution* . . ." The Constitution was established to attain these goals.

Now, this may seem like quibbling over words, but the distinction is fundamental. The founding fathers aimed to establish a general framework, a set of broad rules within which human beings would function and operate, as individuals, as groups, and sometimes even as government. There is a vast difference, however, between setting up a government to do things for the individual and setting up a constitutional system within which individuals can do things for themselves and for each other.

It is this subtle rewriting of the Constitution, this invoking of the general welfare clause, which is rapidly transforming America from a society of individuals into a society of conflicting groups which can end only in the total state.

THE United States Supreme Court, furthermore, has repeatedly held that the preamble of the Constitution confers in no sense any authority for government action, either state or Federal. It is the subsequent part of the Constitution which allocates power and authority. The founding fathers

## PUBLIC UTILITIES FORTNIGHTLY

assigned to Congress only 17 groups of powers (Article 3, § 8). Congress has these powers and no others. Technically, Congress cannot even pass laws to promote the general welfare! Every law it passes must be based on one or another of specific, enumerated powers. Of course, no one would argue that the Constitution should settle this matter for all time. But if the welfare statists are smarting under a sense of guilty unconstitutionality, and if they mean to drive our society further down the road of statism, perhaps they would better call a constitutional convention to scrap what we have and pave the way to utopia via the total state. Let's have it legal and constitutional.

### *False Precedents*

**I**N defense of current welfare state proposals, it is commonly argued that these are simply the modern, up-to-date counterparts of what the Federal government has always done. It is argued, for example, that the government adopted a tariff to promote the welfare of business. Again, it passed the Homestead Act parceling out land to promote the welfare of farmers. It passed the Sherman anti-trust law, appropriated for highways, established a commission to regulate railroads, and created a system of currency and of weights and measures.

These are accepted and pronounced good. Those who argue against the welfare state, it is asserted, are simply mossbacks, old-fashioned, who refuse to permit government to grow with the change in problems, in technology, and in people's needs. This argument must be met. Let's see if we can meet it.

**A**CTUALLY, the tariff was not passed for the benefit of businessmen, even if they were proponents. The tariff was advanced in order to create an internal market for agricultural produce and to make the nation independent of a quarreling and unstable Europe. We were not going to remain only a food and raw material producing nation.

Land grants to railroads were made not to benefit the railroad, nor to benefit the individual stockholders, nor any other class, but rather to help settle this empty continent. There was fear that the imperialist expansion and pressing populations of other lands were never going to let alone this continent, so rich in space and resources, unless we filled it up quickly. Building railroads was the best way to accomplish this. But railroads could hardly be expected to stretch out into thousands of miles of wilderness without incentive. The government, therefore, instead of building railroads itself as other nations did, offered as an



**Q** "THE basic characteristic of the welfare state is the separation of the individual's income from his economic value to society. In 1929 about \$1 billion was paid out on the basis of need. By 1947 this figure had risen to \$12 billion, or nearly twice the combined dividends of all American corporations."



## THE WELFARE STATE IN MOTION

incentive millions of acres of virtually worthless land which had been taken from the Indians. This was a benefit, but given without taxing Paul to give to Peter—the basic characteristic of the current welfare state.

Similarly, the Homestead Act of 1862 provided land virtually free of cost to anyone willing to settle on it. The government was simply passing title to land which cost society nothing.

The Interstate Commerce Commission regulated an industry which is "naturally monopolistic." In upholding the first public utility regulation in this country, the United States Supreme Court quoted from a pronouncement 300 years ago of Lord Chief Justice Hale, saying that from time immemorial these businesses in which competition cannot protect the consumer have been regulated by government. To argue that the regulation of these monopolies is simply a forerunner of the current welfare state is indeed a distortion of history.

### *Nature of Welfare State*

Now, what is this welfare state that is the center of controversy? It is so multisided that no single description can do it justice. But its essence is that the incomes of people should not be tied, or at least not too closely tied, to their economic contributions to society. The basic characteristic of the welfare state is the separation of the individual's income from his economic value to society. In 1929 about \$1 billion was paid out on the basis of need. By 1947 this figure had risen to \$12 billion, or nearly twice the combined dividends of all American corporations.

While everyone believes in helping people in distress, the current welfare state goes far beyond this elemental spirit of human compassion. In doing so this means, its critics fear, the growing destruction of incentives—incentives for the beneficiaries to work and save; and incentive and ability of those who bear the tax burdens to save, to invest, and to expand our productive capacity.

WHILE perhaps a selfish motive activates some who oppose the welfare state, their skepticism has a much deeper foundation. They are concerned with this destruction of incentives, both of the beneficiaries and of those burdened with carrying them. They question whether we will retain the dynamic drive toward expansion and economic progress that is so essential if we are going to bear up under the growing load of our commitments, both foreign and domestic.

Government now takes 25 per cent of our national income. Colin Clark, a highly respected Australian economist, after careful study in many countries, came to the conclusion that when once the government tax-take equals 25 cents out of every dollar, a democratic society gets into trouble. Incentives to work are weakened. Resistance to the tax burden rises. People find ways and means of tax avoidance. Disemployment rises. The economy goes into a tail spin and this leads to deficit financing, whereby the economy strives, so to speak, to float itself through inflation to a higher price level to make the tax burden more bearable. But this provides only temporary relief. Just why the "25 per cent tax-take" is the peril point is





### Siphoning Effect of Welfare State

**"T**HE welfare state is a powerful suction pump designed to transfer income from the more efficient and successful elements in society to those of opposite characteristics. It is an engine which reduces the savings of those with more than average income. But this transfer simultaneously must reduce and perhaps destroy what economists call 'capital formation.' Without this new investment, without innovations and new technology, economic progress is impossible."

not known, but so it has occurred in country after country. We have reached this peril point.

**T**HE British have exceeded this point. But their economy is no longer viable. They cannot meet their obligations. Controls continue and expand. Labor is restless. The *Economist*, the liberal British weekly magazine, states that personal saving has all but disappeared from the economy. Seeing these developments, many critics of the welfare state argue, in the interests of our welfare and indeed our survival in a hostile world, that we had better reexamine the debilitating effects of the welfare state.

The right to spend one's income as he sees fit has been regarded as an essential of individual liberty. The progressive income tax plus a host of other taxes already deny our citizens this right to a marked degree. Exist-

ing and urgently proposed social security programs will cost from 20 to 23 per cent of payroll. The railroad security program already costs 15.5 per cent and actuaries agree that it is underfinanced, nor does it include socialized medicine and a number of other costly programs now being promoted.

It is clear that the more government takes our earnings from us and spends this tax-take, the smaller is the area and scope for individually determined expenditures to suit one's own tastes and needs. This is but one way by which the welfare state destroys the freedom of the individual. Social security has a place in a dynamic economic society but just as an individual can be "insurance poor" so a society can be unduly security-minded. This question of degree is crucial. If workers and others prefer to take part of their income in the form of deferred

## THE WELFARE STATE IN MOTION

benefits and are willing to pay for it, that should be their privilege.

### *The Welfare State Impairs Expansion*

THE welfare state is a powerful suction pump designed to transfer income from the more efficient and successful elements in society to those of opposite characteristics. It is an engine which reduces the savings of those with more than average income.

But this transfer simultaneously must reduce and perhaps destroy what economists call "capital formation." Without this new investment, without innovations and new technology, economic progress is impossible. In England personal savings, as we have seen, have all but disappeared. The welfare state puts the emphasis on consumption, at the expense of production and new investment. This is self-defeating because rising consumption is dependent upon rising production and investment. The British political leaders now know this to be true but they are as helpless as a drowning man in mid-ocean. So they resort to exhortation to get production up. But five years of exhortation have failed to solve their problems.

In modern democracies the emphasis is on immediate tangibles. There are few votes for saving and for the time-consuming and laborious process of adding to the total supply of capital goods and productive capacity.

Until the last decade or two our productivity per man-hour increased about 2.5 per cent per year. Since 1940, it is doubtful that this rise in production has been 1 per cent per year. By taking away the funds which might

have gone to new investment and the incentive to invest, through taxation and a militant aggressive unionism, we may make the beneficiaries better off in the very short run by a few percentage points. However, since average productivity rises by 2.5 per cent per year if the investment incentives are maintained, this would mean a rise in real output by about 15 per cent, or nearly one-seventh, in the short space of five years. We have no moral right to consign the young men or women of today, future generations, our children and children's children, to economic stagnation, as the British have already done. Thwarting the capacity for economic growth is an economic sin easily committed and difficult to undo. The failure of output per man-hour to resume its previous upward trend, is the best evidence that we too may already be in trouble.

### *Government Assumes Unbearable Burdens*

As government goes deeper and deeper into the welfare state the capacity of the legislature to handle the business on hand will diminish by leaps and bounds. More and more must be turned over to administrative bureaus, and citizen control of government becomes more remote. This is how liberty gets lost.

Throughout most of our history the Congress has been in annual session only for a few months. In the last decade with the growth of the welfare state it has become increasingly difficult each year for the Congress to complete its business before the new year comes. From 1900 to 1905 the average session lasted about 150 days. Even in the early 1930's this figure was rarely

## PUBLIC UTILITIES FORTNIGHTLY

exceeded. If we impose more and more duties and burdens upon government, it will become progressively more and more impossible for the Congress to consider foreign problems, review adequately the work of the bureaus and existing programs, and consider appropriations, taxation, and new proposals. This is the stuff of which dictatorship is made. The people become more and more confused. Congress seems befuddled and bemused. Critics cry out for action. Faith in Congress dies out. Mass action movements are organized and one day when the leadership is ripe, power will pass from the people to the leaders to bring "order" out of chaos. It is not going too far to say that today's planners of the welfare state are the architects of the total state.

This lengthening of congressional sessions in turn seems to make justifiable much higher pay for Congressmen, to say nothing of tax-free expense accounts. Then the attraction of personal gain through public office becomes that much greater. Instead of attracting public-spirited citizens to office who are successful in their own right, this means turning our entire affairs—political, economic, foreign, and all—over to professional politicians whose primary, if not exclusive, aim is to get and keep office and the enormous emoluments thereof. Senator La Follette, the elder, once said in

a speech that "neither wealth, nor power, nor the voice of the howling mob would deter me one hair's breadth from my chosen path." With politics professionalized, how many La Follettes can we expect to hear?

THE welfare state merges economics and politics. The founding fathers were at great pains to separate the legislative, executive, and judicial branches of the government. They believed stoutly in limited government. Their principles were the result of experience with unlimited government. They were profoundly influenced by the great liberals of the seventeenth century. Thomas Hobbes had said "Freedom is political power divided into small fragments."

The tyranny of the state has been demonstrated anew in our times in Italy, Germany, and Russia. Democracies one after another have given way to the total state, with the state made responsible for welfare, for employment, for security. The politician govern and control not only the traditional affairs of government, but also the economic system. Instead of dispersing and diffusing power and authority, the total drift of the welfare state is toward the concentration of power and authority.

Because the dangers of this drift in the short run are obscured, the masses of people and even educated persons

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**Q** "LET government do a few things, but do them well. The thinner it spreads itself over an ever wider range of activities, the more will it bungle what it does. All would agree that it has the primary responsibility in foreign relations and mitigating boom-bust through monetary and fiscal policies—yet it has failed dismally in both these fields."

## THE WELFARE STATE IN MOTION

will or refuse to see the danger. Thus Oscar Ewing, one of the most aggressive planners of the welfare state, recently said, "The only people who worry about the welfare state are those who worry about paying a cent or two more on their taxes." If this is then the wisdom of the founding fathers, who built a system under which we have greatly flourished and enjoyed liberty, is no longer valid. How would Ewing answer the challenge of Vannevar Bush who recently said that it may not be long before we will "have taken care of everyone at the expense of everyone else, and failed to take care of the primary national interest. We cannot afford to interfere unduly, even in the name of humanitarianism, with the diversified vigorous private initiative that has made us great."

What about the words of warning issued recently by General Dwight Eisenhower, by ex-Secretary of State James F. Byrnes, and a host of other respected and honored citizens who have raised their voices against a trend which they knew would gain them no popular acclaim? Would Oscar Ewing say to Bush, Eisenhower, and Byrnes that they were just afraid that the welfare state might cost them another "cent or two" in their income tax?

### *The Politician Feeds on the Welfare State*

THE drift toward welfare statism exudes primarily from the ambition of politicians. The masses rarely demand anything—although their ambitious leaders may. To be sure, the masses of the people always could use more income, they may be made envious of their betters and they will re-

spond to accounts of their plight and may welcome the strong arm of the state taking from Peter to give to Paul.

BUT the politician, striving for the prestige, the emoluments, and income of public office, is the real promoter of the welfare state. Once government is viewed as a device for redistributing income and a dispenser of the product of our economy, any politician who promises any less than another is viewed as inadequately imbued with the spirit of human welfare. Once the government comes to the economic rescue of any sector or group, other sectors and groups appear to be left behind. So the welfare state comes to the rescue of group after group—soaking not only the efficient and successful elements in society, but soaking everybody and charging a heavy brokerage fee for the handling of the funds and administering the programs. The welfare state thus fathers growing groupism and conflict and destroys the viability of the economy.

Put this type of welfare statist race into effect, and any office seeker who even questions it, is suspect and labeled an enemy of the people. For this reason the probability of restricting public succor to those in distress—with which all would agree—is remote indeed.

Given this temper among the electorate and the insatiable appetite for office among politicians, is there really any stopping point in the welfare state short of the total state? H. L. Mencken, the sage from Baltimore, once said that if a politician found that he had cannibals among his constituents he would promise them missionaries for their Sunday dinner. Charles

## PUBLIC UTILITIES FORTNIGHTLY

Brannan, Secretary of Agriculture, recently said the Brannan plan will "mean for me either a palace or the back house."

*Render unto Caesar . . .*

LET government do a few things, but do them well. The thinner it spreads itself over an ever wider range of activities, the more will it bungle what it does. All would agree that it has the primary responsibility in foreign relations and mitigating boom-bust through monetary and fiscal poli-

cies—yet it has failed dismally in both these fields.

If we mean to preserve both economic progress and liberty we must keep political powers and economic powers, first, in separate hands, and, second, these powers must be kept as diffused and dispersed as is possible.

The welfare statist who ignores this elementary principle is either ignorant of, or indifferent to, the lessons of history. Is he willing to take the responsibilities for the consequence of the total state?

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"THIS demonstration [the loyalty parade], encouraging as it was, does not mean, however, that the general public is yet fully aware of the drift in this country toward Socialism. Nor does it mean that the man in the street is aware of the fact that the chief difference between Communism and Capitalism lies in economic policies and practices.

"Our high standards of living and, to a very large degree, the rights and privileges we in the United States enjoy are due to the fact that business here is managed and conducted by private individuals. In Russia the government owns everything and everyone works for the government. Erase that difference and the factors it involves and we have little to squabble about.

"When a government owns and controls every means of livelihood it becomes necessary for the people to do the bidding of those in power in that government. That would be true in the United States as well as in Russia. The right to vote, freedom of worship, the right to select a career or a job, and all other rights would become meaningless.

"Nevertheless we have well-meaning people even in high government positions who seem perfectly willing and even anxious to turn our business organizations over to the government. Granted that some of these could be placed under government control and operation without damaging our economy too much, there is always the danger that power-hungry politicians may go much too far once a precedent has been established.

"Consequently, there is more to guarding the American way of life than marching in a parade and shaking our fists at Russia. We must also make certain that the men we send to Congress and the bureaus we set up in Washington do not forget that this country was created and built by people acting and working as private individuals."

—RALPH HENDERSHOT,

*Financial editor, New York World-Telegram.*

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## What's Being Done about Rights for Utility Stocks?

This article gives us a business examination of preemptive subscription rights in utility equity financing. The problems and pitfalls are carefully explored.

By FRANKLIN T. McCLINTOCK

VICE PRESIDENT, HARRIMAN RIPLEY & CO., INC.

**L**AST year, according to figures prepared by Ebasco Services Incorporated, over \$670,000,000 of public utility common stocks, measured by their public offering prices, were sold for cash to the public or to stockholders, and of this total about \$442,000,000 represented issues to raise "new money" as distinguished from divestment sales by holding companies and issues where the proceeds were used to retire senior securities. The utility industry raised about \$2,320,000,000 of new money during 1949 through all types of financing. Thus, sales of common stocks comprised approximately 19 per cent of total new money financing. For electric companies alone the percentage was over 23 per cent.

Retained earnings are, of course, another important element in the equity portion of the capital structure

of the industry. These retained earnings in 1949, together with the proceeds of sales of common stocks during the year, were sufficient, generally speaking, to maintain the ratio of equity capital to total capitalization at levels approximating previous levels in most segments of the industry. Senior securities convertible into common stocks, which it is hoped will in due course be so converted, have also played an important rôle in recent utility finance, particularly in the telephone field.

**T**HE preemptive right of common shareholders to subscribe to additional issues of common stocks, and to senior issues convertible into common stocks, is a time-honored principle in the United States. Its origins go back at least to the year 1807. Briefly, and without attempting to go into its vari-



## PUBLIC UTILITIES FORTNIGHTLY

ous ramifications, it may be said that the preemptive right of shareholders is predicated on the principle that the existing shareholders have a right to proper protection against the dilution, without their consent, of their existing interests in the corporate assets and earnings, and of their proportionate voting power. As a practical matter, when the shares of a large corporation are widely scattered among many stockholders, no one of whom owns an appreciable percentage, the necessity for the protection of proportionate voting power becomes quite academic. On the other hand, such voting power protection can be a matter of major importance when the shares of a corporation are held by a small number of stockholders.

A preemptive right of subscription generally accompanies the ownership of common stock, unless the charter or articles of incorporation of a company expressly limit or deny the right. When the right is severely limited or denied, the stockholders continue to receive such protection as is afforded by the fiduciary obligation of the directors, against the dilution of the stockholders' existing interest in the corporate assets and surplus, and against other possible breaches of trust.

**I**T is quite apparent that utility companies are tending to include severe limitations in their charters on the preemptive rights of stockholders. The writer has made a study of summaries of the provisions of the articles of incorporation of 143 representative utility companies to determine the extent of the preemptive rights of their stockholders. The list of companies is

not all-inclusive, but it does include most of the larger electric, gas, and telephone companies whose common stocks are held by the general public. Charter limitations on the preemptive right follow various patterns, but we have divided the companies studied into two broad groups, the dividing line being whether an additional issue of common stock for cash *must* be first offered to stockholders, or whether such issues sold for cash *may*, under certain circumstances, be offered to the general public without giving subscription rights to stockholders. This is the division:

|                       | <i>Number of<br/>Companies</i> | <i>Per<br/>Cent</i> |
|-----------------------|--------------------------------|---------------------|
| Must give rights .... | 67                             | 47                  |
| Rights not obligatory | 76                             | 53                  |
|                       | 143                            | 100                 |

**M**ANY of the seventy-six companies whose charters do not make the preemptive rights obligatory on sales for cash, are operating companies which have recently been divested by holding companies or are themselves holding companies which have been found by the Securities and Exchange Commission to meet the standards of the Public Utility Holding Company Act.

While the charter provisions of a majority of the companies studied provide that new issues *may* be sold for cash without first giving subscription rights to stockholders, this does not mean that these companies do not sometimes voluntarily give their stockholders a right to subscribe to new issues of common stocks. During 1949, of the seventy-six companies in this category, twenty-six companies actually sold additional issues of common stock. Of the twenty-six, the

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## WHAT'S BEING DONE ABOUT RIGHTS FOR UTILITY STOCKS?

issues of fifteen companies were offered directly to the public without the issuance of subscription rights to stockholders.

The remaining eleven companies, although under no obligation to do so, gave transferable subscription rights to the holders of their common stocks. Thus, the directors of about 42 of these companies which financed through common stock in 1949, voluntarily decided to use the subscription method.

**T**HERE are a number of business reasons which frequently prompt the directors of utility companies to avoid the issuance of subscription rights. Occasionally, management wishes to broaden the stockholder list geographically when there is an exceptionally heavy concentration of stock holdings in the territory served and neighboring regions. The theory here is that a broader national market for the stock will benefit the stockholders in the long run.

More frequently the problem is in the reverse, particularly in the case of companies whose common stocks have been divested by holding companies through distribution to the security holders of holding companies. Here the management of an operating utility may well want investors residing in the territory to have a greater tangible stake in the operations of the

company. This objective can be accomplished through a public offering unencumbered by subscription rights with greater facility than when the stockholders have a first call on the new offering.

Other companies may wish to broaden the stockholder list without regard to geographic considerations. Still others may feel that possible benefits to stockholders from a right of subscription are outweighed by the lower price, additional expenses, and complexities of a subscription offer. Further along the question of a lower price for subscription offers will be discussed and at that point relative underwriting costs will be touched upon. As to the additional expenses and complexities, these involve the printing and mailing of prospectuses to all stockholders, the preparation and mailing of transferable subscription warrants, and arrangements to handle all the details in connection with subscriptions.

**W**HILE there may very well be substantial business reasons, in a particular instance, for the directors of a company to seek to avoid making a subscription offer, there are also circumstances which may make it distinctly preferable to use the subscription method even when the charter is so drawn that the choice is left to the directors. For example, when

**Q** "WHILE there may very well be substantial business reasons, in a particular instance, for the directors of a company to seek to avoid making a subscription offer, there are also circumstances which may make it distinctly preferable to use the subscription method even when the charter is so drawn that the choice is left to the directors."

## PUBLIC UTILITIES FORTNIGHTLY

the market price, or the price at which the additional shares can be sold, is below the book value of the existing shares, a general public offering of the new shares might be questioned as an improper distribution to outsiders of a potential interest in the existing surplus of the company. Also, the directors would no doubt weigh the situation carefully before making a general public offering if they had any reason to believe that the market price for the existing shares, or the anticipated sales price for the new shares, did not reflect fair value.

The concept of fair value is illusive. It may properly be above or below the market price, or on the market price, depending on the facts present in a particular case. For just one of a number of examples, the market has recently seen rather persistent liquidation in certain operating utility stocks which have been distributed to the stockholders of holding companies, one reason being presumably that the stocks were in part received by persons more interested in a possible speculative profit in the holding company stock than in retention of an interest in a stable operating property. While the market price under these circumstances may be the best price obtainable at the moment, it also may not be considered to be a fair price, if it is somewhat below the prices at which the stocks of comparable operating companies are selling.

**E**XCLUDING divestment sales by holding companies, about \$110,000,000 of utility common stocks were offered to the general public in

1949, whereas, about \$400,000,000 of such common stocks were offered first to stockholders for subscription. Thus, about 80 per cent of the aggregate dollar amount of these sales consisted of issues where stockholders received subscription rights. In addition, over \$430,000,000 of debt securities and preferred stocks convertible into common stocks (including \$394,372,900 principal amount of convertible debentures of American Telephone and Telegraph Company) were sold during 1949 and over 98 per cent of these offerings were made through rights to the common stockholders.

**T**HREE special factors are important in pricing subscription offerings: "price dilution factor"; "market pressure factor"; "lag factor."

The "price dilution factor" is a rather elementary feature of subscription offerings; it is essentially the calculation of the theoretical value of the right. If a company offers new shares in the ratio of one for five outstanding shares, and sells the new shares at 90 per cent of the market value, the market price of the shares just prior to the offering includes the value of the right. When the rights are traded separately from the shares, the shares are then said to sell "ex-rights." In the example just mentioned, a rough calculation, based on percentages, of the value of the right is one-sixth of 10 per cent or  $1\frac{2}{3}$  per cent of the market price of the shares just prior to the offering. The "ex-rights" price for the stock would approximate the previous price less  $1\frac{2}{3}$  per cent, other things being equal. An approximate dollar value for the right can be calculated

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### Meaningless Subscription Rights

**"A** RIGHT of oversubscription is not practical when the discount from market is small, and may be a positive hindrance in offerings close to or at the market. Since there are two 'calls' on the shares, the managing underwriter then has much greater difficulty in maintaining the delicate balance necessary to assure success of an offering, and, when the final outcome of the offering is known, it may be apparent that the requisite selling effort to place the issue had not been made during the subscription period."

by dividing, six in this instance, into the difference between the previous market and the subscription price.

**T**HE dilution is of no importance, of course, to stockholders who exercise their rights, since the decrease in the value of outstanding shares owned by the subscribing stockholders is fully offset by the still lower price paid for the new shares. Likewise, the stockholder who sells his rights is no worse off *provided* he obtains full value for his rights, because the sales value of his rights then equals the dilution in the value of the shares he already owns. There is a third variety of stockholder who can be injured through a discount subscription offer—the "sleeper" stockholder who, for any reason or none at all, allows valuable rights to expire. The term

"sleeper stock" is not precisely synonymous with the term "unsubscribed stock." Many alert stockholders may allow their rights to expire if the rights have little or no market value on the expiration date.

The "market pressure factor" has nothing to do with the movement up or down of the general market, nor with any market appraisal of the prospects of a company. The reference here is to the general pressure exerted by any offering of securities, whether subscription or general. Such offer will, in due course, be reflected in declining prices from a given level, unless enough buyers are interested in purchasing the security at the higher price. In other words, there is invariably a market impact, which stems from the offering itself. This is the "market pressure factor."

## PUBLIC UTILITIES FORTNIGHTLY

In a nonpreemptive general public offering the sales organizations of the underwriters and of distributing dealers are brought into action as soon as the offering is made. These sales organizations are trained to seek out the buyers of securities. If an issue is properly priced, adequate effort normally results in rapid distribution.

**I**N a subscription offering, on the other hand, the underwriters and distributing dealers have, until fairly recently sat more or less on the side lines awaiting the outcome of the subscription. This was largely because they had no firm security to offer to investors until the outcome of the subscription was known. A large proportion of the rights are frequently offered for sale in subscription offerings of convertible debentures and convertible preferred stocks where the price of the security sometimes includes value for a future "call" on the common stock, at a price considerably above the existing market for the common shares. This type of security is usually designed to find its market among investors other than existing stockholders. As a result, when large quantities of rights are for sale, there is always a question whether the available demand will be adequate to absorb them.

In a subscription offering of size, dealers frequently engage in arbitraging operations, the effect of which is to keep the prices of the rights and the shares or convertible security in line with each other, but the net position, either long or short, of these dealers is seldom large enough to affect price materially. Hence the activities of dealers in the market for

rights for their own account are probably on balance on the constructive side, but it is unpredictable and not to be relied upon, particularly when rights are in supply. On the whole, it may be said that at least until fairly recently, the market has not always been adequately geared to handle the situation which arises when large amounts of rights are for sale.

**T**HERE is no method to isolate statistically what has been called the "market pressure factor" from other factors operating on the price of a new offering. Nevertheless, in the period from 1933 through 1946, there were a great many offerings, where the rights declined substantially in value during the subscription period, although the general market was steady or rising, and no other factor than the impact of the offering itself seemed to be present.<sup>1</sup>

During and since 1947, however, methods have been gradually worked out, in large measure through trial and error in specific offerings, which provide a reasonably satisfactory solution to the problem. As the matter now stands, the underwriters may offer, at any time during the stand-by period, shares, or a convertible secu-

<sup>1</sup> This situation resulted in a committee of the Investment Bankers Association of America being formed in 1946 to study the problem. Underwriters had about concluded that the fees they received did not adequately cover the risks they assumed in stand-by subscription offerings. Large losses had been incurred in 1937 and again in 1946. While these losses were of course primarily due to the sharp breaks in the stock market in those years, it was felt that underwriters should be able to improve the techniques by which rights changed hands during the stand-by period, and thus reduce fluctuations in value and the underwriting risks. The result, the committee felt, might be a long-run tendency to hold down the cost of stand-by underwritings.

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## WHAT'S BEING DONE ABOUT RIGHTS FOR UTILITY STOCKS?

ity, as the case may be, to the public, and may obtain these securities through the exercise of warrants acquired in the market by them. The prices at which sales are made cannot be increased more than once in twenty-four hours and the price cannot be lower than the subscription price, less any concessions allowed to dealers. The price ceiling is the highest price at which the security is then being offered on its primary market, plus commission. The managing underwriter handles all of these transactions for the group in order to avoid a situation in which members of the underwriting group might be working at cross purposes. Dealer's concessions (payable out of the underwriting fee) are allowed on sales and these concessions are set at a level believed sufficient to obtain the requisite sales effort.

THIS type of operation reduces the underwriter's risk to the extent that sales are made, when offset by rights purchased. Just as importantly, it provides a market for sellers of rights and has definitely tended to lessen the fluctuations in the value of rights during the subscription period. Obviously, no method can be devised which will assure that the price of a security will remain steady or rise during a period of several weeks when the general market is subject to fluc-

tuations. On the whole, it may be said that the new method has gone far towards ameliorating the "market pressure factor" in subscription offerings.

The third factor has been referred to, earlier, as the "lag factor." It is applicable primarily to additional issues of common stocks. Financial statements of the issuer do not (at the time an offering is made) reflect the productive use of the money to be brought into the business. Published results may take months, even years. The directors, no doubt, have made a thorough study of the plan for use of the money. But their study is necessarily based on estimates which they may quite properly hesitate to use as representations to prospective purchasers in a prospectus. When this situation exists, there is a tendency for the market to ignore the new money raised by an offering of additional shares, and to approach a level equivalent to the value of the stock if the company had paid a stock dividend in the same ratio. The greater the discount of the subscription price from the previous market, the greater the effect of the "lag factor."

There seems to be no cure for this situation, except to the extent that the directors can conscientiously inform the stockholders and others concerning the details and anticipated results of their plans. Fortunately for the utility industry, particularly the natural gas



**"A SUBSCRIPTION offering at no discount from the market can be successfully completed only if the price for the shares is obviously reasonable when analyzed in comparison with the prices of other stocks of comparable companies and if the general market does not decline during the subscription period."**



## PUBLIC UTILITIES FORTNIGHTLY

pipelines and electric companies, it has been possible for investors in the last year or so to appraise the future outlook with a fair degree of probable accuracy. Thus, the "lag factor" has not been so important for many utility companies as for industrial companies contemplating an increase in outstanding stock.

**U**NDERWRITERS are usually acutely aware of the possible effect on price arising from the "lag factor" in investor psychology. On the other hand, a director of a company, having studied the use of the proceeds of a proposed issue and having satisfied himself that the money can be employed profitably, may be inclined to underestimate the effects of the fact that investors are not as fully informed as he. For this reason, substantial differences of view can arise between underwriters and the directors of an issuer as to the value of a new offering. These differences in view can best be ironed out, in the writer's opinion, in the give and take of a negotiation. The "lag factor" may operate to impede a general public offering fully as much as a subscription offering. Some of its effect, but probably not all, will be reflected in the market price of the security during the period between the first public announcement of the issue and the time when the actual price of the offering is determined.

The three factors outlined above as affecting price are of course only a fraction of the factors which eventually govern the outcome of a particular subscription offering, but they are believed to be sufficiently important to warrant special mention. It can-

not be overemphasized, however, that in the last analysis the course of the general market is determinative in the outcome, if everything else humanly possible to do has been done to make an offering a success.

**O**N the whole, the record of subscription offerings by utilities in the last year or so has been remarkably good. There were at least sixty-seven subscription offerings of common stocks by utilities during 1949 and there have been at least fifteen of these offerings so far this year. The market background has been favorable to the success of offerings and in numerous cases prices have changed very little throughout the subscription period. The amount of "sleeper" stock on most offerings, where the discount from market has been 5 per cent or more, has been small, generally ranging between 2 to 8 per cent of the issue.

During 1949, only three major subscription offerings at discounts from market deviated sufficiently from normal to warrant comment, and in each of these three instances the offering was successfully completed. In one case early in the year, where the discount from market was about 13 per cent and where the market for the shares remained steady during the subscription period, the amount of "sleeper" stock was rather high, 10 per cent of the issue.

In another case in the late summer where the discount was about 5 per cent and where the market for the shares went up slightly during the subscription period, about 20 per cent of the issue turned out to be "sleeper" stock. In the third case in the early



### Limitation on Subscription Rights

**"A** PRE-EMPTIVE right of subscription generally accompanies the ownership of common stock, unless the charter or articles of incorporation of a company expressly limit or deny the right. When the right is severely limited or denied, the stockholders continue to receive such protection as is afforded by the fiduciary obligation of the directors, against the dilution of the stockholders' existing interest in the corporate assets and surplus, and against other possible breaches of trust."

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summer, the market for the stock reacted downward rather sharply during the subscription period, although the general utility market remained fairly steady at the time. The initial discount from market of about 6 per cent virtually disappeared, with a corresponding reduction in the value of the rights. In this case the amount of stock taken up and sold by the underwriters amounted to about 45 per cent of the issue. The decline in the price of the stock was temporary—it recovered, not so very long after the subscription offer was past, to a level where the price was "in line" with other comparable stocks. It appears that the "market pressure factor" operated in this instance.

**T**HE favorable market conditions of recent months have brought about a rather surprising development in utility subscription offerings, the practice of offering additional issues

of common stock to stockholders at virtually no discount from the market. Seventeen of the sixty-seven subscription offerings of common stocks by utility companies in 1949 were offerings at prices substantially equal to the market price for the shares at the beginning of the subscription period. An offering of this type takes on many of the characteristics of a general public offering at the market. Since the rights have no initial value and usually develop no more than a nominal value during the subscription period, trading in the rights is restricted and such subscriptions as are made come largely from actual holders rather than from purchasers of rights. Hence subscriptions are usually low, probably averaging around 50 per cent of the issue and ranging from as low as 20 per cent up to more than 70 per cent, depending on the circumstances of the particular case. Yet the stockholder who allows his rights to

lapse does not suffer much, if any, injury because the price involves no "market dilution factor."

A subscription offering at no discount from the market can be successfully completed only if the price for the shares is obviously reasonable when analyzed in comparison with the prices of other stocks of comparable companies and if the general market does not decline during the subscription period. The situation of the company must be such that no "lag factor" is anticipated. The "market dilution factor" is absent by definition. Since the price must be "obviously reasonable," the "market pressure factor" is not important. Sales of rights will take place only if there is a rise in the market. It is almost a necessity for the offering to be underwritten, in order to develop the necessary interest through dealers to place the unsubscribed stock at the offering price; but in virtually all recent cases underwriting fees have been moderate because underwriters have appraised the risks as moderate under prevailing market conditions despite the 2- to 3-week stand-by involved.

It is the writer's opinion that it would take no more than a small change in market receptivity for utility stocks to cause a rather sharp increase in the underwriting fees quoted for this type of operation. At the outset of the subscription period a substantial part of the stock is often sold by the managing underwriter to dealers and investors, thus reducing the apparent risk, although the underwriters do have a risk on these sales on the short side, because in a sharply rising market there might not be enough unsub-

scribed stock to cover the short position. The managing underwriter watches the market as the subscription period progresses and may or may not "lay off" additional stock, depending on how he sizes up the situation. Barring a wide break in the market, he counts on a fair amount of the shares to be taken by the stockholders.

It is readily apparent that this type of offering calls for the utmost skill on the part of the managing underwriter. It is much more difficult and uncertain than the method of buying rights and selling stock on discount subscription offerings described earlier, although the managing underwriter may shift to the latter method if the price of the stock goes up and the rights develop value. As a result of the ability of the managing underwriter to "lay off" stock with considerable, but not complete, confidence when the rights have virtually no value, the underwriting risks have been judged by underwriters to be little, if any, greater than in offerings about 5 per cent below the market where underwriters obviously are in greater danger of ending up in a short squeeze if stock is sold short.

FROM the issuer's standpoint a subscription offering at no discount has advantages and disadvantages. Certain stockholders may complain that the management is niggardly in not allowing the rights to have value, although as we already have pointed out, this stockholder's logic is far from perfect. Since a subscription offering with no real rights takes on, as to a substantial part of the offering, the characteristics of a cash offer to the general public, it provides a better

## WHAT'S BEING DONE ABOUT RIGHTS FOR UTILITY STOCKS?

opportunity than a discount subscription offer to broaden the list of stockholders.

One utility company which made two separate subscription offers during 1949 at no discount from the market increased the number of common stockholders more than 20 per cent through these operations, which were in the ratios of one for six and one for ten, respectively. Underwriting commissions may, in certain cases, be somewhat larger than on a discount offer, but, as already indicated, the difference has been very small, especially when consideration is given to the lower net realization per share on discount offerings in relation to current market value for the shares sold. The underwriting fee must in a particular case be sufficiently large to permit a dealer's concession which will cause dealers and underwriters to put forth a real sales effort on the stock sold by the underwriters.

In this connection an analysis has been made of the available information relating to certain underwritten subscription offerings by utilities during 1949 and the information given in the following table has been developed with respect to issues where the subscription price represented discounts from market not exceeding 10 per cent.

THERE were a few underwritten utility issues offered in 1949 where the discount was greater than 10 per cent but these issues are not sufficiently representative to include in an average. The net realization to the issuer shown has been calculated after underwriting fees but before other expenses in connection with the issue, and is expressed as a percentage of the market price for the shares just prior to the offering. It is unnecessary to point out that a statistical tabulation of this sort is indicative of no more than a trend or tendency and is subject to all the qualifications which would arise from a study of the actual data relating to each issue.

The underwriting commissions on subscription offerings "at the market" shown below averaged 3.8 per cent of the offering price. The range in these commissions was between 2.5 per cent and 7.5 per cent of the offering price. For comparison, the simple arithmetic average of the underwriting commissions on twenty general public offerings of utility stocks in 1949 amounted to 5.15 per cent of the offering price, which also approximated the going market price in each instance. On these public offerings, the lowest commission amounted to about 2 per cent, and the highest to about 10 per cent, of the offering price.



| <i>Relationship of<br/>Subscription Price<br/>To Market Price<br/>Just Prior<br/>To Offering</i> | <i>Number of<br/>Issues in<br/>Sample</i> | <i>Approximate Average<br/>Underwriting Com-<br/>missions As % of<br/>Offering Price*</i> | <i>Average Net<br/>Realization by Issuer<br/>As % of Market Price<br/>For Shares Just<br/>Prior to Offering*</i> |
|--|---|---|--|
| At market .....  | 9   | 3.8%  | 96.2%  |
| Up to 5% discount .....  | 4   | 3.4   | 92.4   |
| 5% to 10% discount .....   | 13  | 2.1   | 90.7   |

\*Simple arithmetic average.

## PUBLIC UTILITIES FORTNIGHTLY

While these figures would tend to indicate that subscription offers at market have been cheaper to issuers than general public offerings at market, it is the writer's opinion that the apparent difference would evaporate if each issue in each group were subjected to rigid analysis, including the situation of the companies concerned and the market background at the time. In theory the underwriting commission on a stand-by offering should be larger than on a straight cash offering, price being equal, although there is perhaps some theoretical justification for the view that there are a certain number of stockholders who will subscribe to an offering by a company favorably situated, regardless of price and other considerations, thus reducing the apparent underwriters' risk.

**W**HEN the discount from market on a subscription offer is large, the need for the insurance of an underwriting is less than is the case when the discount is small or nil. There have been a number of utility issues offered at substantial discounts to stockholders which have not been underwritten. However, most issues offered at the market or at discounts up to 10 per cent from the market have been underwritten. In connection with some nonunderwritten utility issues, soliciting dealers' fees have been paid to stimulate subscriptions, but the available evidence suggests that these fees have generally been too small to accomplish their purpose and that subscriptions have not actually increased, in most cases, appreciably above the level which might reasonably have been reached without the fees. However, soliciting dealers' fees have

proved very effective, in several instances where holding companies offered, without an underwriting, rights to their stockholders to subscribe to the stocks of companies not previously directly owned by the public, which the holding company was divesting. The dealers' fees in these instances were large enough to bring about a real effort by dealers.

Another subject under active discussion in connection with subscription offers is the advisability of offering a right of oversubscription to the stockholders. In at least seventeen instances during 1949, stockholders received the nontransferable right, subject to the prior rights of the stockholders under a specified ratio, to enter additional subscriptions for shares, sometimes without limit and sometimes with limits. A right of additional subscription does not eliminate the "sleeper" problem in discount offerings because any stockholder who does not exercise or sell his rights under the specified ratio is still injured to the extent of the "price dilution factor." However, in at least fourteen of the seventeen instances where it was used in 1949, oversubscriptions resulted in the stockholders taking up the entire issue, whereas normally the underwriters would take up the so-called "sleeper" stock.

**A** RIGHT of oversubscription does not in itself eliminate need for an underwriting, because additional subscriptions will not be forthcoming in substantial amount if the offering proves unattractive. Without a right of oversubscription, the underwriters would normally take up the unsubscribed stock and sell it to investors,

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## WHAT'S BEING DONE ABOUT RIGHTS FOR UTILITY STOCKS?

sometimes with an arrangement that the issuer receives at least part of any premium over the subscription price realized by the underwriters. If the underwriters receive all or part of the premium realized on sale of the unsubscribed shares, this arrangement is taken into account when the underwriting commissions are set. A right of oversubscription, if it operates to take up the unsubscribed stock, gives the premium, if any, to the particular subscribing stockholders rather than to the company for the benefit of all the stockholders. In this respect it operates inequitably. A right of oversubscription is not practical when the discount from market is small, and may be a positive hindrance in offerings close to or at the market. Since there are two "calls" on the shares, the managing underwriter then has much greater difficulty in maintaining the delicate balance necessary to assure success of an offering, and, when the final outcome of the offering is known, it may be apparent that the requisite selling effort to place the issue had not been made during the subscription period. And, when the underwriters are called upon to take up stock on which there has been a call, virtually unlimited, for a period of two or three weeks, the underwriters may rightly think that they are taking up rather shopworn merchandise. In the long run this may result in increased underwriting costs.

**A**NOTHER closely related problem, to which most of the foregoing comments also apply, has to do with employee subscriptions. The management of a company may think that it

is desirable for its employees to own stock in the enterprise, if an employee wishes to buy stock, but most employees are not familiar with the brokerage and dealer channels through which securities can be purchased, since they have not previously had occasion to use these services. Moreover, when stockholders have preemptive subscription rights, it has in the past been difficult to set up a ready means for employees to purchase stock other than on the open market. By giving employees a nontransferable right, subject to the stockholders' prior rights, to subscribe to shares (usually with a top limit of some sort) at least some available stock is likely.

In a few instances there was both a right of employee subscription and an oversubscription right for stockholders, but this compounds the difficulties in a stockholder oversubscription right.

If it can be worked out, the best method to provide stock for employees is through appropriate stockholder action, waiving preemptive rights as to a certain amount of stock.

**T**HE foregoing discussion of some phases of equity finance is intended to indicate that utility management, for the most part, has open to it a whole gamut of methods which may be used when considering the issuance of additional common stock or a security convertible into common stock. A program can be designed to fit a particular problem or to achieve particular objectives considered important by utility management. A given pattern for an offering derives no particular distinction simply because it has been successful in the past.





## Washington and the Utilities

### *Water Resources Board Begins To Stir*

PRESIDENT Truman's Water Resources Policy Commission looms larger as an organization which may determine the extent and location of future Federal hydroelectric developments. (See page 434 of March 30th issue.) The casual impression of some Washington observers seems to be that it was something created for the purpose of giving employment to Leland Olds—rejected by the Senate for a third term as a Federal Power Commissioner. By that the Fair Dealers add a very important work for the WRPC—the full import of which may not emerge for some time. The commission is chairmaned by Morris Llewellyn Cooke, first Rural Electrification Administrator. Olds, most active member of the body, is commissioner in charge of studies.

Cooke has announced a series of local meetings of WRPC in western states "with a view to developing from representatives of state and local government agencies and citizen groups constructive suggestions on which sound national water policy can be based." He gave the following itinerary for June: Sioux City, twelfth and thirteenth; Spokane, sixteenth and seventeenth; San Francisco, twenty-third and twenty-fourth; Denver, twenty-seventh and twenty-eighth; and Fayetteville, Arkansas, thirtieth and July 1st. Subsequently, he said, conferences will be scheduled in Springfield, Massachusetts, and Atlanta, Georgia, on dates yet to be announced. The announcement also contained a series of questions which will be taken up at these local meetings.

Hydroelectric developments, as such,

were not expressly mentioned in connection with the commission's agenda. However, there was sufficient reference to "all purposes which water resources can serve" to indicate that the commission is not overlooking the power factor. It is significant that the commission's staff, according to Chairman Cooke, is "composed largely of experts" detailed by government departments, including the Army Engineers, Federal Power Commission, and Interior Department.

Two of the eight questions, which the chairman said would be considered at these local meetings, are provocative with respect to power developments—"What basis should be established for these decisions of water resources projects of various kinds?" and, "To what extent does sound development of water resources become a factor in the event that industrial dispersal becomes necessary in connection with national defense?" (Editor's note: Decision on the latter query would seem to be within the jurisdiction of the National Security Resources Board.)

It is recalled here that members of the WRPC are compensated from the President's emergency fund. A recent bill (S 3553) to raise this fund from \$1,000,000 to \$10,000,000 could presage ever broadening activities by the commission, whose full membership includes Paul S. Burgess, dean of the College of Agriculture, University of Arizona; Lewis Webster Jones, president of the University of Arkansas; Samuel B. Morris, general manager and chief engineer, Los Angeles Department of Water and Power; R. R. Renne, president, Montana State College; and Gilbert F. White, president, Haverford (Pennsylvania) College.

## WASHINGTON AND THE UTILITIES

### *St. Lawrence Seaway Project Dormant*

ST. LAWRENCE seaway-power legislation is dead for the remainder of the 81st Congress. The House Public Works Committee recently passed the "death sentence" on the measure (HJ Res 271) for the U. S.-Canada agreement, even while hearings were still in progress. As proponents neared the end of their testimony, Chairman Will Whittington (Democrat, Mississippi) announced an indefinite postponement. The ostensible reason for the committee's delaying action was the Senate Foreign Relations Committee's preoccupation with more pressing international matters—the "cold war."

Under the circumstances, the House group did not believe it should consume further time with a measure certain to die with adjournment of Congress.

The proposed Niagara river power development seems to be a pattern of Federal administration legislation, designed to compromise state-Federal differences in both the Niagara and St. Lawrence areas.

Senator Herbert L. Lehman and Representative Franklin D. Roosevelt, Jr. (both Democrats of New York), who have sponsored identical bills—S 3528 and HR 8343—are under home-state pressure to promote power development for state consumption. Their measures are aimed at accomplishing the compromise, authorizing planning and construction by the Army Engineers under international treaty. However, the state of New York would take over the project under an agreement, repaying Federal costs and protecting the interests of the people of New York, adjacent states, and the Federal government, with the latter distributing the power in the event that New York were not interested.

### *Kings River Bill Stymied in Congress*

THE House Public Lands Committee has apparently laid away for the

remainder of the session the proposed Kings river, California, public power development by the Reclamation Bureau. This measure (HR 5462), by Representative Cecil F. White (Democrat, California), has been viewed in two lights: (1) as an Interior Department effort to put pressure on the Federal Power Commission to rescind an earlier approval for Kings river power development by Pacific Gas and Electric Company—now being considered on rehearing; and (2) an effort by the administration to give needed aid to Representative White, facing a reelection fight.

There is ample reason to believe that many members of the Irrigation and Reclamation Subcommittee—headed by Representative John R. Murdock (Democrat, Arizona)—are not favorably impressed with the importance of Interior Department's plan for authority to develop the North Fork of the Kings river, cost of which has been estimated at \$50,000,000.

THE subcommittee also has taken cognizance of the fact that supporters of the White Bill have come entirely from the Bureau of Reclamation, with one exception—a representative of the Fresno County Democratic Central Committee. His argument in favor of the White Bill, patently political in context, drew sharp criticism from ranking subcommittee Republicans and Democrats. Opponents of the bill included the attorney general of California and numerous water users of the region.

Representative Murdock, friendly to the measure, has agreed to hold local hearings in California. However, House leadership does not favor sending a subgroup to California at a time when congressional roll calls reveal a high rate of absenteeism. Another adverse factor may develop as a result of the subcommittee's decision to request a full report from the Federal Power Commission on the White proposal. It is not conceivable that the FPC will overlook the opportunity to acquaint the House members with important policy questions, involving hydroelectric licensing controls.



# Financial News and Comment

By OWEN ELY

## Review of Progress with Holding Company Dissolution Programs

SINCE our last review of this topic (March 2nd FORTNIGHTLY) progress has been relatively slow, as compared with the remarkable progress in 1949.

*American & Foreign Power's* new recapitalization plan is expected to be ready some time this summer, although the company has asked for a year's delay before consummation of the plan. Elaborate statistical tables were compiled by the company at the suggestion of the SEC and filed with counsel for the various committees and other interveners, from which the figures and estimates shown in the table on page 783 are compiled.

Evidently the SEC is hopeful that, with this complete data and projected estimates, the principal contestants—Electric Bond and Share, public holders of the first preferred stock, and also of the second preferred—may be able to reconcile their conflicting views in the initial new plan, thus avoiding the long contest which delayed the progress of the previous plan. However, it appears likely that such an important case will require at least a year's time for hearings, staff investigation, and final consideration by the commissioners, together with some further delays in a Federal court. But the decisions reached with respect to the first plan may clear away some minor issues and help expedite the new plan.

JUNE 8, 1950

**A**MERICAN POWER & LIGHT (*new*). While American Power & Light is legally still the same holding company, actually it is "new" in the sense that it controls only one subsidiary as compared with five under the old setup, before the distributions this spring. It was retained as a holding company for the two northwestern subsidiaries, Pacific Power & Light and Washington Water Power. The former has been sold and Washington Water Power may also be disposed of at some later date. The company now has on hand about \$10 cash, representing cash retained from the old setup, plus the proceeds of Pacific Power & Light. On May 19th a group of common stockholders (including Gerstley, Sunstein & Co. and an institutional and other holders, representing more than 100,000 shares) filed a petition with the SEC urging distribution by the company of all its assets other than cash reserves required for tax claims, etc. A similar petition had been filed April 25th by H. Lane Ogle, another

### DEPARTMENT INDEX

|  |          |
|--|----------|
| Review of Progress with Holding Company Dissolution Programs                 | 782      |
| Chart and Comment—Stock Yields v. Bond Yields                                | 786      |
| Estimated "Value Ranges" of Utility Common Stocks                            | 786      |
| Table—Current Utility Statistics and Ratios                                  | 787      |
| Tables—Recent Statistical Data for Gas, Telephone, Transit, and Water Stocks | 789, 790 |

## FINANCIAL NEWS AND COMMENT

common stockholder. In any event, American Power & Light is expected to distribute about \$7 of its \$10 cash per share, possibly this summer. The question of dissolution may therefore be deferred for a time. It is understood that the management has plans to increase the earning power of Washington Water Power prior to effecting a sale of that stock. Moreover, if a sale to public utility districts is contemplated, it might be worth while to wait until the supreme court of the state of Washington determines the constitutionality of the new state law permitting the districts to "club together" in making purchases.

*Arkansas Natural Gas.* No recent developments have been reported.

**CENTRAL PUBLIC UTILITY.** The company on March 13th filed an amended plan providing for the issuance of 1,100,000 shares of new common stock with a par value of \$6, which would be distributed to holders of the debenture 5½s at rates varying from 2.40 shares per \$100 a bond, if the month of original issue was August or September, 1932, to 2.03 shares if the month of issue was March, 1938. If necessary, some of the shares of common stock of Central Indiana Gas Company would be sold to provide funds to pay in full by September 20th a \$3,500,000 bank loan of the subholding company, Consolidated Electric & Gas. The earnings of Central Indiana Gas showed a sharp gain last year but restatement of taxes on an individual company basis would lower these earnings.

*Central States Electric.* Federal Judge Hutcheson has fixed June 15th as the

last day when acceptances or rejections in connection with the plan must be filed with the trustees by security holders.

*Cities Service Company.* The company has disposed of its remaining electric operating company, Toledo Edison, by offering the common stock (except for a small fraction privately held) to its own stockholders at 9 on a share-for-share basis. Rights were to expire May 29th. The stock of Toledo Edison (new) is quoted at about 10½, to yield 6½ per cent based on an indicated 70-cent dividend rate. The company intends to issue 400,000 additional new money shares shortly after the Cities Service sale is completed. Based on the resulting number of shares after both offerings, *pro forma* earnings approximate 87 cents and are projected at 95 cents for the calendar year 1950 and \$1.03 for 1951.

**EASTERN UTILITIES ASSOCIATES.** On April 28th President Perera announced that the company had decided to continue in business, rather than dissolve. The SEC earlier in April had ordered the company to dissolve unless it could acquire all outside interest in excess of 10 per cent in Fall River Electric Light and Montaup Electric. EUA now plans to recapitalize as a Massachusetts corporation which will own and operate Brockton Edison, Fall River Electric, and Montaup Electric, and will own all the securities of Blackstone Valley Gas & Electric. The company will purchase from New England Electric the latter's holdings of 118,161 shares of Fall River Electric at \$65 a share (with a similar offer to other holders) if the SEC approves. This will give the company more



|   | Est.<br>1950 | Prelim.<br>1949 | 1948   | 1947   | 1946   |
|---|--------------|-----------------|--------|--------|--------|
| Revenues .....  | \$129        | \$135           | \$124  | \$110  | \$ 97  |
| Net equity for American & Foreign Power .....   | 26           | 23              | 19     | 16     | 17     |
| Parent company expenses, taxes, and interest* .....                                       | 9            | 7               | 7      | 7      | 7      |
| Balance .....   | \$ 17        | \$ 16           | \$ 12  | \$ 9   | \$ 10  |
| Amount per share on proposed 5,000,000 shs. of<br>new common stock (under old plan) ..... | \$3.40       | \$3.20          | \$2.40 | \$1.80 | \$2.00 |

\*Includes about \$1,000,000 additional interest under old plan.

## PUBLIC UTILITIES FORTNIGHTLY

than 90 per cent of Fall River, Blackstone Valley, and Brockton Edison. The company will also recapitalize, not only to raise the necessary funds for the purchase of Fall River, but also to settle the conflicting rights of the common and convertible stocks, through an allocation of new common stock. The program has not been fully worked out, the first step being to obtain SEC approval of the Fall River purchase by August 31st, the time limit specified in the purchase agreement.

*Federal Water & Gas.* No further progress appears to have been made recently toward definitely clearing up the complicated litigation and claims which thus far have delayed final distribution of assets. Federal owns eight-tenths share of Scranton-Spring Brook Water Service for each share of its own outstanding, giving an estimated break-up value (less any valid claims) of about 11½ (plus any cash) compared with a recent quotation of 9-10. Judging from the past record it appears unlikely that claims will eventually be sustained in excess of the moderate Chenery claim already allowed by the SEC.

*General Public Utilities.* No special developments since our last review.

**I**NTERNATIONAL HYDRO-ELECTRIC. The suit filed in the U. S. Circuit Court of New York in February by the class A stockholders' committee, seeking a review of the SEC order of December 6, 1949 (which sustained its 1942 dissolution order), is probably a retarding factor. Sale of the block of Gatineau Power stock and retirement of the debentures is anticipated over the near future, however. The first intention was to sell this stock in Canada, First Boston Corp. being retained for expert advice. However, about May 3rd Trustee Brickley stated that he would negotiate with Merrill Lynch, Kidder, Peabody, and Harriman Ripley as a syndicate to effect the sale.

*Long Island Lighting.* A circuit court decision on the recapitalization plan appears imminent and it is understood that, if the common stockholder committee carries a further appeal to the U. S.

Supreme Court, this will be expedited so that, if the latter refuses to hear the appeal, the plan can be consummated within a few weeks. (Otherwise it will presumably go over till fall.) Consolidated Edison announced some weeks ago that it had withdrawn its proposal to acquire a controlling interest in Long Island Lighting.

*Middle West Corporation.* The SEC recently approved the liquidating plan, but ratification also by a Federal court seems required for technical reasons. (There is no opposition to the plan.) The immediate liquidating dividend will be \$2.50 in cash instead of \$2.25; remaining liquidating value, estimated at about 50 cents, will be retained until December, 1951, probably for tax reasons.

*New England Public Service.* On April 7th the SEC ordered the company to sell sufficient of its common stockholdings in either Public Service Company of New Hampshire or Central Maine Power Company to retire its \$9,900,000 bank loan. The company has been planning over the last two or three years to sell 200,000 shares of the New Hampshire stock, but without taking any definite action. The SEC threatened to take the matter to a Federal court if the company did not act promptly.

**N**IAGARA HUDSON POWER. On June 10th the assessment (payable in order to exchange one share for 78/100 of a share of Niagara Mohawk) will be reduced from 75 to 50 cents. This further reduction is geared to a dividend payment on Niagara Mohawk, payable June 30th to holders of record June 9th. The exchange offer will expire July 5th but holders who do not make the exchange now will automatically receive the stock around the year end without paying any assessment.

*North American Company.* The company sometime ago filed with the SEC a proposal that it merge with its principal subsidiary, Union Electric of Missouri, stockholders receiving stock of the latter company on a share-for-share basis. North American's miscellaneous assets

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## FINANCIAL NEWS AND COMMENT

—accumulated cash, the holdings in North American Utility Securities Company (involved in litigation), the building at 60 Broadway, New York, etc.—would be transferred to the operating company.

Gradual liquidation of these miscellaneous assets, together with cash already on hand, would relieve Union Electric of equity financing requirements for some time, it is understood.

*Northern New England Company.* No new developments reported. (See New England Public Service.)

*Philadelphia Company.* The company has sold its entire natural gas holdings (concentrated into Equitable Gas) for \$45,755,000 cash, after retaining \$17,500,000 Equitable debentures, thus making the total proceeds \$63,000,000—a much larger figure than estimated earlier in the year. The SEC and the Federal court have approved the recapitalization plan of Pittsburgh Railways, and after some further formalities this will be consummated. It is estimated that the 51 per cent of the new common stock, to be received by Philadelphia Company, may be worth about \$5-\$10,000,000.

Philadelphia Company recently retired its entire funded debt from proceeds of the Equitable Gas sale. It has in its treasury senior securities of Equitable Gas and Duquesne Light, which the management proposes to exchange for its own noncallable issue of preferred stock, after legal authority has been obtained. Retained cash, plus proceeds of sale of Pittsburgh Railways, might perhaps suffice to retire the callable preferred stocks, possibly at the redemption price of 110 though market prices indicate some doubt on this point. Assuming that this program works out as indicated, Philadelphia Company's capitalization would then be reduced to common stock, and it could conceivably merge with Duquesne Light, though no such proposal has yet been made.

**STANDARD POWER & LIGHT** and *Standard Gas & Electric*. No allocation or dissolution plans for these companies ap-

pear likely in the immediate future, since the attention of the management is concentrated on streamlining Philadelphia Company. However, President Boshell recently asked SEC permission to "clear the decks" by withdrawing all old plans or proposals for the recapitalization or dissolution of Standard, some of which date back to 1943. A new committee representing about 32,600 shares of the \$4 preferred stock has been formed, with W. F. Peterson as chairman and Guggenheimer & Untermyer as counsel.

**UNITED CORPORATION.** The company now plans to sell its holdings of 189,263 shares of Niagara Mohawk Power "A" preference stock in the open market, probably in July-August after a registration statement has been prepared. Proceeds will be used to retire bank loans incurred in redeeming the preferred stock. The SEC has not yet approved the company's changes in the amended plan, which were filed March 24th. This made provision for paying off small stockholders who might not desire to go along with the plans of the management to turn it into an investment company. Stockholders owning 29 shares or less (of record March 23rd) could turn in their stock for cash or Niagara Mohawk Power stock; those owning 30 shares or over could make the exchange of stock, approximately on the basis of 1 Niagara Mohawk for 6 United. When United no longer holds more than 10 per cent of voting securities of any utility, it would cease to be a holding company; and within twelve months thereafter it would undertake to reduce its holdings to less than 5 per cent in any utility company.

*United Light & Railways.* The company has filed an application with the SEC to distribute to its own stockholders the common stock of Eastern Kansas Utilities on a 1-for-25 basis. This is a very small subsidiary, which has not been prominently mentioned in earlier summaries of the dissolution program. The distribution may be combined with that of a larger company, Iowa Power & Light.



## PUBLIC UTILITIES FORTNIGHTLY

Distribution of Iowa-Illinois Gas & Electric stock will presumably be made at a later date, although it had been previously indicated that liquidation would be completed by June of this year.

### Stock Yields v. Bond Yields

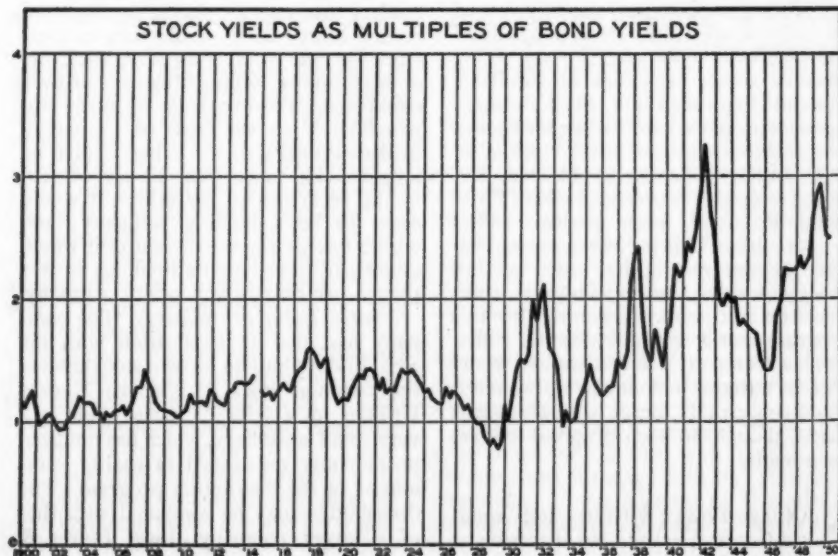
WHILE the almost uninterrupted advance in stock prices during the past eleven months has caused some investors to fear that the bull market may be approaching a top, at least one index—the ratio of industrial stock yields to high-grade bond yields—still remains favorable. Back in 1928-29 and again in 1933-34, according to the chart prepared by the Cleveland Trust Company, from data compiled by Standard & Poor's, industrial stock yields were around or below bond yields, but at the end of 1949 they remained nearly three times as high as bond yields. The ratio has dropped a little since then, but is still high enough to indicate that sound equities are attractive for income as compared with high-grade bonds.

### Estimated "Value Ranges" of Utility Common Stocks

INSTITUTIONAL UTILITY SERVICE, INC. (now at 74 Trinity place, New York city), recently issued a special brochure entitled "Public Utility Common Stocks—Estimated Value Ranges." (Price \$10.) Tables are presented for 72 operating electric utility companies, arranged in five groups according to Moody bond ratings. The average values worked out for each group show that, on the average, these stocks should increase in price by the indicated percentage, to reach a parity with the upper limit of the "value range":

|                         |     |
|-------------------------|-----|
| Group 1 (Aaa) .....     | 15% |
| Group 2 (Aa) .....      | 35% |
| Group 3 (A) .....       | 40% |
| Group 4 (Baa) .....     | 55% |
| Group 5 Not Rated ..... | 31% |

These results seem reasonable, assuming that the study has not made any distinction in the yardsticks applied to different sized companies, which we understand is the case. Naturally the Aaa companies include the largest and best companies, the stocks of which are of institutional caliber; as we go down the scale of



The Cleveland Trust Company

JUNE 8, 1950

## FINANCIAL NEWS AND COMMENT

ratings the companies are apt to be somewhat smaller and more speculative, and prices accordingly depart further from the statistical "norm" which is applied to

large and small companies alike. In other words, the study indicates that the best bargains are among the stocks of the smaller companies and it is undoubtedly



### CURRENT UTILITY STATISTICS AND RATIOS

|  | Unit Used   | Amount       |                | Per Cent Increase |                |
|--|-------------|--------------|----------------|-------------------|----------------|
|  |             | Latest Month | Latest 12 Mos. | Latest Month      | Latest 12 Mos. |
| <b>Operating Statistics (March)</b>                      |             |              |                |                   |                |
| Output KWH—Total .....                                   | Bill. KWH   | 27.0         | 295.9          | 9%                | 3%             |
| Hydro Generated .....                                    | "           | 8.7          | —              | 7                 | —              |
| Fuel Generated .....                                     | "           | 18.3         | —              | 10                | —              |
| Capacity .....   | Mill. KW    | 63.9         | —              | 11                | —              |
| Customers, no. ....                                      | Mill.       | 43.3         | —              | 5                 | —              |
| Fuel Use: Coal .....                                     | Mill. tons  | 7.2          | —              | D6                | —              |
| Gas .....  | Mill. mcf   | 41.4         | —              | 16                | —              |
| Oil .....  | Mill. bbls. | 7.9          | —              | 71                | —              |
| Coal Stocks .....  | Mill. tons  | 15.3         | —              | D38               | —              |
| <b>Sales, Revenues, and Rates (February)</b>             |             |              |                |                   |                |
| KWH Sales—Residential .....                              | Bill. KWH   | 4.6          | 46             | 11%               | 13%            |
| Commercial .....   | "           | 3.2          | 37             | 8                 | 8              |
| Industrial .....   | "           | 8.8          | 103            | —                 | D4             |
| Total, incl. misc. ....                                  | "           | 22.6         | 258            | 5                 | 1              |
| Revenues—Residential .....                               | Mill. \$    | 130          | 1,370          | 10                | 11             |
| Commercial .....   | "           | 91           | 1,034          | 7                 | 7              |
| Industrial .....   | "           | 102          | 1,203          | —                 | D1             |
| Total, incl. misc. sales .....                           | "           | 354          | 3,992          | 6                 | 6              |
| <b>Revenues and Income (February)</b>                    |             |              |                |                   |                |
| Elec. Rev., incl. sales to other utils.                  | "           | 390          | 4,414          | 6%                | 4%             |
| Misc. Income .....                                       | "           | 17           | 138            | 22                | 15             |
| <b>Expenditures (February)</b>                           |             |              |                |                   |                |
| Fuel .....   | "           | 60           | 698            | —                 | D10%           |
| Labor .....  | "           | 71           | 864            | 5%                | 5              |
| Misc. Expenses .....                                     | "           | 62           | 759            | 3                 | 2              |
| Depreciation .....                                       | "           | 36           | 392            | 12                | 8              |
| Taxes .....  | "           | 77           | 800            | 8                 | 11             |
| Interest .....   | "           | 21           | 246            | 8                 | 13             |
| Amortization, etc. ....                                  | "           | 2            | 22             | D22               | D16            |
| <b>Earnings and Dividends (February)</b>                 |             |              |                |                   |                |
| Net Income .....   | "           | 78           | 772            | 10%               | 15%            |
| Preferred Div. (est.) .....                              | "           | 9            | 105            | 4                 | 2              |
| Bal. for Common Stock (est.) ....                        | "           | 69           | 667            | 11                | 18             |
| Common Dividends (est.) .....                            | "           | 38           | 465            | 2                 | 9              |
| Balance to Surplus (est.) .....                          | "           | 31           | 202            | 29                | 98             |
| <b>Utility Financing (March)*</b>                        |             |              |                |                   |                |
| Bonds .....  | "           | 445          | 1,103**        | 24%               | 10%            |
| Stocks .....   | "           | 91           | 262**          | 25                | 88             |
| Total .....  | "           | 536          | 1,365**        | 26                | 19             |
| <b>Life Insurance Investments (January 1st-May 13th)</b> |             |              |                |                   |                |
| Utility Bonds .....                                      | "           | —            | 363            | —                 | 26%            |
| Utility Stocks .....                                     | "           | —            | 81             | —                 | 326            |
| Total .....  | "           | —            | 444            | —                 | 45             |
| % of All Investments .....                               | "           | —            | 15%            | —                 | D6             |

D—Decrease. \*Data for all utilities (electric, gas, telephone, etc.), including refunding issues. \*\*Three months ended March 31st.

## PUBLIC UTILITIES FORTNIGHTLY

right in this respect, even though the stock market may temporarily take a different view. The big utility has much the same operating problems as the little utility, the same regulatory difficulties, a similar capital setup, etc. The electric utilities are now so well standardized that they are almost like "peas in a pod." To pay a substantial price premium for size is just like paying a fancy price (in terms of yield and price—earnings ratio) for an industrial "blue chip." However, it may take some years for the market to recognize this fact—the great uniformity of the electric utilities—since it is so accustomed to applying this principle successfully *outside* the utility field.

**W**HILE the formula used by Institutional Utility Service in estimating the range values for individual stocks is not fully explained, the following is a partial explanation:

The study lists certain basic statistics such as the recent rate of return earned on estimated book value, the common stock equity percentage, recent earnings and dividends, the percentage pay-out, and yield on present price. The data in other columns are of a theoretical nature and are explained as follows by the Service, from which we quote as follows:

**EEP** — represents the "estimated earnings potential" based on applying what we believe to be an appropriate rate of return to our estimate of what the rate base might be considered to be under the regulatory policy of the state in which the company operates. Unless there is satisfactory evidence to the contrary we have generally assumed an original cost, or net investment, rate base and a 6 per cent return. In some instances an actual rate base has been established by the state commission and an appropriate rate of return indicated. In other cases, as in Ohio, Pennsylvania, and certain other states, known regulatory policy calls for a reproduction cost or fair value rate base and we have made adjustments accordingly. In all cases the per share earnings figure shown is after

deducting full service requirements on the senior securities presently outstanding.

**E'**—our own estimate of "capitalizable earnings," or that portion of "estimated earnings potential" which we believe should be capitalized for the purpose of determining investment value. It is derived by means of a formula which automatically compensates for the degree of leverage resulting from the type of capital, or security, structure. The use of this formula is predicated on the theory that what the investor is interested in are the earnings which he might, under normal or average conditions, expect to receive in the form of dividends. Thus "capitalizable earnings" might be considered as the "normally distributable" earnings, or the "dividend component."

**% Pay-out**—the ratio of estimated capitalizable earnings to estimated earnings potential.

**E' Yield** — the ratio of estimated capitalizable earnings to the current market price.

**RV**—estimated range of value based on the indicated capitalizable earnings. It is based on capitalizing the latter at approximately 6½ per cent and 5½ per cent, a range which encompasses average dividend yields on utility common stocks over a period of many past years. The variation in the range is approximately 20 per cent.

**Price % HV**—ratio of the current market price to the high figure of the range of value.

**C**HARLES TATHAM, JR., vice president of Institutional Utility Service, remarks that "A study of the tables will reveal an apparent wide discrepancy between the prices at which certain stocks are now selling and their indicated range of value. In certain instances this will reflect the fact that present earnings are materially lower than those which we believe can be looked forward to as reasonably expectable. In other cases, the present dividend rate appears unduly low in relation to earnings, with a consequent retarding effect on market price."

# FINANCIAL NEWS AND COMMENT

## RECENT FINANCIAL DATA ON GAS COMPANY STOCKS

|   | 5/17/50<br>Price<br>About | Indicated<br>Dividend<br>Rate | Approx.<br>Yield | 12 Mos.<br>Ended | Share<br>Cur.<br>Period | Earnings<br>Prev.<br>Period | % In-<br>crease | Price-<br>Earnings<br>Ratio |
|---|---------------------------|-------------------------------|------------------|------------------|-------------------------|-----------------------------|-----------------|-----------------------------|
| <b>Natural Gas—Retail</b>                 |                           |                               |                  |                  |                         |                             |                 |                             |
| C Arkansas Natural Gas ....               | 11                        | \$ .60                        | 5.5%             | Dec.             | \$1.26                  | \$1.44                      | D6              | 8.7                         |
| O Atlanta Gas Light .....                 | 21                        | 1.20                          | 5.7              | Dec.             | 1.90                    | 1.71                        | 11              | 11.1                        |
| S Columbia Gas System .....               | 14                        | .75                           | 5.4              | Mar.             | .95                     | .91*                        | 4               | 14.7                        |
| C Consol. Gas Util. ....                  | 13                        | .75                           | 5.8              | Jan.             | 1.53                    | 1.77                        | D14             | 8.5                         |
| S Consol. Nat. Gas .....                  | 46                        | 2.00                          | 4.3              | Mar.             | 4.10                    | 3.46                        | 18              | 11.2                        |
| O Equitable Gas .....                     | 24                        | 1.30                          | 5.4              | Dec.             | 1.84                    | 1.46                        | 26              | 13.0                        |
| O Houston Nat. Gas .....                  | 16                        | .80                           | 5.0              | July             | 1.45                    | 1.42                        | 2               | 11.0                        |
| O Indiana Gas & Water .....               | 21                        | 1.20                          | 5.7              | Mar.             | 1.94                    | 1.49                        | 30              | 10.8                        |
| O Kansas-Neb. Nat. Gas .....              | 16                        | 1.00                          | 6.3              | Dec.             | 1.63                    | 1.55                        | 5               | 9.8                         |
| S Laclede Gas Light .....                 | 7                         | .20                           | 2.9              | Dec.             | .84                     | .91                         | D8              | 8.3                         |
| C Lone Star Gas .....                     | 27                        | 1.20                          | 4.4              | Mar.             | 1.73                    | 2.07                        | D16             | 15.6                        |
| O Minneapolis Gas .....                   | 17                        | 1.00                          | 5.9              | Mar.             | 1.41                    | .66                         | 114             | 12.1                        |
| O Mission Oil .....                       | 46                        | 2.20                          | 4.8              | Dec.             | 2.05                    | 2.04                        | —               | 22.4                        |
| O Mobile Gas Service .....                | 27                        | 1.60                          | 5.9              | Mar.             | 2.66                    | 2.44                        | 9               | 10.2                        |
| S Montana-Dakota Util. ....               | 12                        | .80                           | 6.7              | Mar.             | 1.33                    | 1.37                        | D3              | 9.0                         |
| C National Fuel Gas .....                 | 13                        | .60                           | 4.6              | Mar.             | 1.01                    | .74                         | 36              | 12.9                        |
| O National Gas & Oil .....                | 6                         | .40                           | 6.7              | Dec.             | .58                     | 1.40                        | D59             | 10.3                        |
| C Okla. Natural Gas .....                 | 33                        | 2.00                          | 6.1              | Mar.             | 2.96                    | 3.37                        | D12             | 11.1                        |
| S Pacific Lighting .....                  | 54                        | 3.00                          | 5.6              | Mar.             | 3.29                    | 4.46                        | D26             | 16.4                        |
| C Pacific Pub. Service .....              | 15                        | 1.00                          | 6.7              | Dec.             | 2.08                    | 3.21                        | D50             | 7.2                         |
| S Peoples Gas L. & C. ....                | 135                       | 6.00                          | 4.4              | Mar.             | 10.88                   | 8.35                        | 30              | 12.4                        |
| C Rio Grande Valley .....                 | 2                         | .12                           | 6.0              | Dec.             | .19                     | .20                         | —               | 10.5                        |
| O Rockland Gas .....                      | 33                        | 1.70                          | 5.2              | Dec.             | 2.73                    | 3.36                        | D19             | 12.1                        |
| O Southern Union Gas .....                | 20                        | .80                           | 4.0              | Dec.             | 1.34                    | 1.16                        | 16              | 14.9                        |
| O Southwest Nat. Gas .....                | 8                         | .20                           | 2.5              | Dec.             | .42                     | .33                         | 27              | 19.0                        |
| S United Gas .....                        | 18                        | 1.00                          | 5.6              | Dec.             | 1.43                    | 1.71                        | D16             | 12.6                        |
| S Washington Gas Light ....               | 26                        | 1.50                          | 5.8              | Mar.             | 2.62                    | 1.39                        | 88              | 9.9                         |
| Averages .....                            |                           |                               | 5.3%             |                  |                         |                             |                 | 12.1                        |
| <b>Natural Gas—Wholesale and Pipeline</b> |                           |                               |                  |                  |                         |                             |                 |                             |
| S American Natural Gas ....               | 31                        | \$1.20                        | 3.9%             | Dec.             | \$1.74                  | \$ .61                      | 185             | 17.8                        |
| S El Paso Nat. Gas .....                  | 26                        | 1.20                          | 4.6              | Feb.             | 1.75                    | 2.45                        | D29             | 14.9                        |
| O Interstate Nat. Gas .....               | 34                        | 2.50                          | 7.4              | Dec.             | 2.50                    | 2.03                        | 23              | 13.6                        |
| O Mississippi Riv. Fuel .....             | 36                        | 2.00                          | 5.6              | Mar.             | 2.48                    | 1.97                        | 26              | 14.5                        |
| O Missouri-Kansas P. L. ....              | 44                        | 1.60                          | 3.6              | Dec.             | 4.24                    | 1.32                        | 221             | 10.4                        |
| O Mountain Fuel Supply .....              | 24                        | .60                           | 2.5              | Dec.             | .91                     | .91                         | —               | 26.4                        |
| S Northern Nat. Gas .....                 | 35                        | 1.95                          | 5.6              | Dec.             | 2.73                    | 2.60                        | 5               | 12.8                        |
| S Panhandle East. P. L. ....              | 43                        | 2.00                          | 4.7              | Mar.             | 2.62                    | 2.34                        | 12              | 16.4                        |
| O Republic Natural Gas .....              | 49                        | 1.00                          | 2.0              | June             | 3.03                    | 2.72                        | 11              | 16.2                        |
| S Southern Nat. Gas .....                 | 38                        | 2.00                          | 5.3              | Mar.             | 3.46                    | 2.97                        | 16              | 11.0                        |
| O Southern Production .....               | 10                        | —                             | —                | Mar.             | .40                     | .38                         | 1               | 25.0                        |
| O Southwest Gas Prod. ....                | 14                        | —                             | —                | Dec.             | .47                     | .14                         | 236             | 29.8                        |
| O Tenn. Gas Trans. ....                   | 30                        | 1.40&Stk.4.7                  | —                | Mar.             | 1.72                    | 1.43                        | 29              | 17.4                        |
| O Texas Gas Trans. ....                   | 17                        | —                             | —                | Dec.             | .81                     | .66                         | 23              | 22.2                        |
| O Texas East Trans. ....                  | 19                        | 64%Stk. —                     | —                | Mar.             | 1.67                    | 1.24                        | 35              | 11.4                        |
| Averages .....                            |                           |                               | 4.5%             |                  |                         |                             |                 | 17.3                        |
| <b>Manufactured Gas—Retail</b>            |                           |                               |                  |                  |                         |                             |                 |                             |
| C Bridgeport Gas .....                    | 23                        | \$1.40                        | 6.1%             | Dec.             | \$1.88                  | \$1.60                      | 18              | 12.2                        |
| O Brockton Gas Lt. ....                   | 19                        | 1.00                          | 5.3              | Dec.             | 1.48                    | .43                         | 244             | 12.8                        |
| S Brooklyn Union Gas .....                | 44                        | 2.00                          | 4.5              | Mar.             | 4.39                    | —                           | —               | 10.0                        |
| O Hartford Gas .....                      | 37                        | 2.00                          | 5.4              | Dec.             | 2.67                    | 1.85                        | 44              | 13.9                        |
| O Haverhill Gas Lt. ....                  | 28                        | 1.80                          | 6.7              | Mar.             | 2.09                    | 1.74                        | 20              | 13.4                        |
| O Jacksonville Gas .....                  | 32                        | 1.40                          | 4.4              | Dec.             | 6.06                    | 5.64                        | 7               | 5.3                         |
| C Kings County Ltg. ....                  | 8                         | .40                           | 5.0              | Dec.             | .64                     | —                           | —               | 12.5                        |
| O New Haven Gas Light .....               | 28                        | 1.60                          | 5.7              | Dec.             | 1.76                    | 1.77                        | —               | 15.9                        |
| O Providence Gas .....                    | 10                        | .60                           | 6.0              | Dec.             | .73                     | .64                         | 14              | 13.7                        |
| O Seattle Gas .....                       | 13                        | .60                           | 4.6              | Dec.             | 1.49                    | .70                         | 113             | 8.7                         |
| S United Gas Improvement ..               | 28                        | 1.30                          | 4.6              | Dec.             | 2.02                    | 1.69                        | 20              | 13.9                        |
| Averages .....                            |                           |                               | 5.3%             |                  |                         |                             |                 | 12.0                        |

# PUBLIC UTILITIES FORTNIGHTLY

## RECENT FINANCIAL DATA ON TELEPHONE, TRANSIT, AND WATER COMPANIES

|                               | 5/17/50<br>Price<br>About | Indicated<br>Dividend<br>Rate | Approx.<br>Yield | 12 Mos.<br>Ended | Share Earnings<br>Cur. Prev.<br>Period Period | % In-<br>crease | Price-<br>Earnings<br>Ratio |
|-------------------------------|---------------------------|-------------------------------|------------------|------------------|---|-----------------|-----------------------------|
| <b>Telephone Companies</b>    |                           |                               |                  |                  |   |                 |                             |
| <i>Bell System</i>            |                           |                               |                  |                  |   |                 |                             |
| S Amer. Tel. & Tel. ....      | 159                       | \$9.00                        | 5.7%             | Mar.             | \$9.65* \$9.24*                               | 4%              | 16.5                        |
| O Cinn. & Sub. Bell Tel. .... | 78                        | 4.50                          | 5.8              | Dec.             | 4.80 3.76                                     | 28              | 16.3                        |
| C Mountain Sts. T. & T. ....  | 100                       | 6.00                          | 6.0              | Mar.             | 6.48 6.25                                     | 4               | 15.4                        |
| C New England Tel. ....       | 101                       | 4.75                          | 4.7              | Mar.             | 9.04 4.26                                     | 112             | 11.2                        |
| S Pacific Tel. & Tel. ....    | 110                       | 7.00                          | 6.4              | Feb.             | 7.20* 6.42*                                   | 12              | 15.3                        |
| O So. New Eng. Tel. ....      | 33                        | 1.80                          | 5.5              | Dec.             | 2.05 1.91                                     | 7               | 16.1                        |
| Averages .....                |                           |                               | 5.7%             |                  |   |                 | 15.1                        |
| <i>Independents</i>           |                           |                               |                  |                  |   |                 |                             |
| S General Telephone ....      | 30                        | \$2.00                        | 6.7%             | Mar.             | \$2.06 \$2.60                                 | D21%            | 14.6                        |
| C Peninsular Tel. ....        | 44                        | 2.50                          | 5.7              | Dec.             | 5.66 5.25                                     | 8               | 7.8                         |
| O Rochester Tel. ....         | 13                        | .80                           | 6.2              | Dec.             | 1.13 .80                                      | 41              | 11.5                        |
| <b>Transit Companies</b>      |                           |                               |                  |                  |   |                 |                             |
| O Chicago S. S. & S. B. ....  | 9                         | \$1.00                        | 11.1%            | Dec.             | \$.91 \$1.40                                  | D35%            | 9.9                         |
| O Cinn. St. Ry. ....          | 5                         | .30                           | 6.0              | Dec.             | .77 1.57                                      | D51             | 6.5                         |
| O Dallas Ry. & Term. ....     | 10                        | 1.40                          | 14.0             | Dec.             | 1.39 2.27                                     | D39             | 7.2                         |
| O Duluth Sup. Trans. ....     | 9                         | 1.00                          | 11.0             | Dec.             | .44 2.75                                      | D84             | —                           |
| O Kansas City Pub. Ser. ....  | 1                         | —                             | —                | Aug.             | .02 —   | —               | —                           |
| O Los Angeles Transit ....    | 5                         | .50                           | 10.0             | Dec.             | .93 .87                                       | 7               | 5.4                         |
| S Nat'l. City Lines ....      | 9                         | 1.00                          | 11.1             | Dec.             | 1.97 1.57                                     | 25              | 4.1                         |
| O Phila. Transit ....         | 4                         | —                             | —                | Dec.             | 1.03 .31                                      | 232             | 2.9                         |
| O St. Louis Pub. Ser. A ....  | 6                         | .50                           | 8.3              | Dec.             | .48 .70                                       | D31             | 12.5                        |
| O Syracuse Transit ....       | 19                        | 2.00                          | 10.5             | Dec.             | .62 1.40                                      | D13             | —                           |
| O United Transit ....         | 2½                        | —                             | —                | Dec.             | .55 .13                                       | 246             | 5.0                         |
| Averages .....                |                           |                               | 10.3%            |                  |   |                 | 6.7                         |
| <b>Water Companies</b>        |                           |                               |                  |                  |   |                 |                             |
| <i>Holding Companies</i>      |                           |                               |                  |                  |   |                 |                             |
| S Amer. Water Works ....      | 10                        | \$.60                         | 6.0%             | Mar.             | \$.82 \$.88                                   | D7%             | 12.2                        |
| O N. Y. Water Service ....    | 121                       | 2.00                          | 1.7              | Mar.             | 8.22 5.95                                     | 38              | 14.7                        |
| <i>Operating Companies</i>    |                           |                               |                  |                  |   |                 |                             |
| O Bridgeport Hydraulic ....   | 31                        | \$1.60                        | 5.2%             | Dec.             | \$1.62* \$1.65*                               | D2%             | 19.1                        |
| O Calif. Water Serv. ....     | 32                        | 2.00                          | 6.3              | Mar.             | 2.43 2.07                                     | 17              | 13.2                        |
| O Elizabethtown Water ....    | 105                       | 6.00                          | 5.7              | Dec.             | 6.89 7.33                                     | D6              | 15.2                        |
| S Hackensack Water ....       | 34                        | 1.70+                         | 5.0              | Dec.             | 3.35 2.79                                     | 20              | 10.1                        |
|                               |                           | 25% Stk.                      |                  |                  |   |                 |                             |
| O Indianapolis Water ....     | 18                        | .80                           | 3.9              | Dec.             | 1.33 1.42                                     | D6              | 13.5                        |
| O Jamaica Water Supply ....   | 24                        | 1.50                          | 6.3              | Mar.             | 1.75 1.02                                     | 72              | 13.7                        |
| O Middlesex Water ....        | 55                        | 3.00                          | 5.5              | Dec.             | 4.87 4.94                                     | D2              | 11.3                        |
| O New Haven Water ....        | 60                        | 3.00                          | 5.0              | Dec.             | 3.45 3.61                                     | D4              | 17.4                        |
| O Ohio Water Serv. ....       | 20                        | 1.50                          | 7.5              | Mar.             | 1.65 2.23                                     | D26             | 12.1                        |
| O Phila. & Sub. Water ....    | 24                        | .80                           | 3.3              | Dec.             | 3.01 2.70                                     | 11              | 8.0                         |
| O Plainfield Union Wt. ....   | 70                        | 4.00                          | 5.7              | Dec.             | 5.09 5.02                                     | 1               | 13.8                        |
| O San Jose Water ....         | 33                        | 2.00                          | 6.1              | Mar.             | 2.78 2.66                                     | 5               | 11.9                        |
| O Scranton-Spring Brook ....  | 14                        | .70                           | 5.0              | Dec.             | .85 .87                                       | D2              | 16.5                        |
| O Southern Cal. Water ....    | 45                        | 3.25                          | 7.2              | Dec.             | 4.08 4.13                                     | D1              | 11.0                        |
| O Stamford Water ....         | 56                        | 2.00                          | 3.6              | Dec.             | 2.35 2.21                                     | 6               | 23.8                        |
| O West Va. Water Serv. ....   | 17                        | 1.20                          | 7.1              | Mar.             | 1.41* 1.38*                                   | 2               | 12.1                        |
| Averages .....                |                           |                               | 5.5%             |                  |   |                 | 13.9                        |

D—Decrease or deficit. E—Estimated. C—Curb Exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. \*Based on average number of shares outstanding. #In order to facilitate comparisons, earnings are calculated on present number of shares outstanding.

JUNE 8, 1950



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# What Others Think

## NSRB Power Survey



**T**HE National Security Resources Board has recently issued its Third National Electric Power Survey. Advisory in nature, it informs the President that reserve generating capacity and transmission facilities should be installed in the nation's electric power system to assure ability to meet requirements in the event of war emergency.

Chairman W. Stuart Symington transmitted the report to the White House with Cabinet concurrence. The report shows that expansion programs now under way will provide a total capability of more than 76,000,000 kilowatts in 1952, an increase of 40 per cent over 1948.

Symington noted in a summary of the report:

This capacity does not assure security from the standpoint of power policy. If war were to break out, power would still be one of our crucial problems. It is of great importance from the standpoint of national security to strengthen and speed up the power construction programs of public and private power systems.

The joint committee of industry and government power experts who prepared the report is of the opinion that even with curtailments in civilian use in the event of an emergency, power loads may increase in many areas. As a result additional reserve capacity and interconnections may be needed to offset possible damage by sabotage or enemy action.

The report was prepared under the direction of Edward Falck, director of the NSRB Office of Energy and Utilities. Others on the joint task force committee participating in the study on electric power supply and requirements included: Robert Blum, NSRB Office of

Energy and Utilities; William W. Brown, Detroit Edison Company; Edwin S. Bundy, vice president, Niagara Mohawk Power Corporation; F. Douglas Campbell, Detroit Edison Company; Walker L. Cisler, executive vice president, Detroit Edison Company; Walter Dreyer, Pacific Gas and Electric Company; Chandler W. Jones, New England Electric System; V. M. Marquis, vice president, American Gas & Electric Service Corporation; J. E. Moore, Ebasco Services Inc.; E. W. Morehouse, vice president, General Public Utilities Corporation; H. J. Scholz, president, Southern Services, Inc.; George P. Steinmetz, Wisconsin Public Service Commission; Robert Wardle, Jr., Georgia Power Company.

**P**REFACED with a summary letter of Falck's to the NSRB, the report consists of two sections: (1) electric power capacity and requirements and (2) production of major electric power equipment. The first section represents the studies made by the electric power committee and the task group consultants of NSRB. The power facilities of the country have been carefully analyzed on a 7-region basis, with peculiar local conditions being noted in each region. Section II deals with the manufacturing capacities of twelve major companies which produce steam and hydraulic generating equipment and power transformers. Both phases of the report—capacities and manufacturing—cover the 1949-1953 period.

In his letter, Falck presents national totals of loads, capabilities, and margins under average hydro conditions. No summary is shown for national totals on the basis of adverse hydro conditions because adverse conditions do not occur concur-



## PUBLIC UTILITIES FORTNIGHTLY

rently in different regions, and therefore such totals in themselves would be without meaning.

The letter also stresses that an overall substantial margin on a nation-wide basis does not necessarily mean that this condition exists throughout the country. Certain areas have low margins and, because of the lack of interconnections on a country-wide basis, these areas are limited to their own margins.

FALCK then summarizes the significant facts on power supply as follows:

1. Although power loads have grown rapidly during the postwar period and are continuing to grow, the rate of growth is not expected, by most of the power systems, to be as rapid in 1951 and 1952 as it was during the period 1946 to 1949.

2. Power system capacity, expanded rapidly up to 1943 to meet war requirements, was held in check during the war. Postwar expansion was temporarily slowed down due to material shortages, but by 1949 increased tremendously. Capacities will continue to increase through 1952, although the rate of increase will probably not be as rapid in succeeding years as in 1949. In most regions the increase in capacity through 1952 is expected to be larger than the increase in load.

3. Margins for reserves and additional load were inadequate in many regions during 1947, 1948, and 1949. Serious shortages in certain regions were intensified by unfavorable water conditions. However, since capabilities are now being increased more rapidly than loads, it appears that by 1952 reserves will be adequate for peacetime loads in all regions of the country except the Southeast and the Northwest.

4. For the Southeast (Region III) gradually increasing margins for reserves and for unanticipated loads are indicated except for the TVA area. TVA faces a very tight situation in 1951. By 1952 some margins will be available to the region through interconnections with Regions II and V, both of which have substantial margins.

5. For the Pacific Northwest (Region

VII) serious shortages are anticipated in the western part of the region, although in the eastern part, considered separately, margins are expected to be adequate. For the region as a whole, even under average water conditions, a deficit of 191,111 kilowatts (3.2 per cent of the load) is anticipated for 1952. Supply in adjacent regions and interconnections will not be adequate to relieve those shortages.

THE letter also summarizes the capacities of generator manufacturers, noting that open capacity for additional orders exists for 1951 and 1952—4,230 kilowatts and 8,300 kilowatts, respectively.

Orders on hand as of October 1, 1949, represent a decrease of 15.7 per cent from the 18,931,360 kilowatts scheduled as of October 1, 1948, for delivery in the comparable period through 1951.

Falck touches on the need for additional generating capacity in the event of war, as follows:

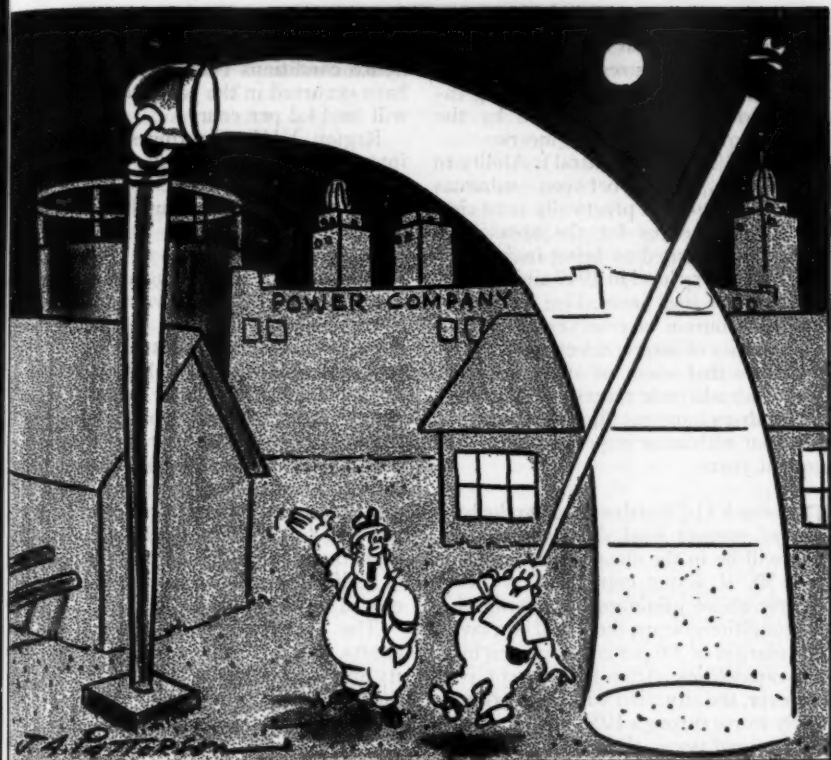
For national security, additional needs may warrant an increase in generating capacity even greater than the expansion now scheduled to meet normal load growth. Thus, in the event of war, even if civilian uses are curtailed, power loads may increase in many areas, and additional reserve capacity and interconnections may be needed to offset possible damage by sabotage or enemy action.

It will be possible for most systems to carry additional load by operation at higher load factors and at lower margins of reserves than are anticipated for the period through 1952.

He also adds that it is quite probable further expansion of power capacity in wartime may be prohibited in order to use all resources for meeting even more urgent war needs. Since adequate capacity is now available to manufacture additional generating units and other power system equipment, power system executives and governmental officials should make sure that generating reserves and transmission ties are brought to fully adequate levels.

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## WHAT OTHERS THINK



"WHAT DO YOU SUPPOSE IT IS? WEAK CURRENT?"

**T**HE regional studies follow a Federal Power Commission pattern of eight regions:

**Region I (Northeast).** In this region it was found that the percentage margins, as well as the absolute value of the margins in kilowatts, show an increase from similar figures compared in the last report. Even with adverse water, a surplus exceeding 15 per cent is available toward the end of the study period.

**Region II (East Central).** Interconnections are adequate for practically all foreseeable transfers. With the load estimates being lower in this report than those appearing in the 1948 report, adequate margins are assured.

**Region III (Southeast).** In this region, with the exception of the TVA

system, gradually increasing markets for reserves and unanticipated loads are indicated. Deficiencies in the TVA system are expected to be met primarily from transfers of power from other systems.

**Region IV (North Central).** The overall power outlook in 1949 is improved from that which existed in 1948. For 1949 the margin of dependable capacity above peak load for the region was estimated at 7.2 per cent under adverse water conditions, or 8.9 per cent under average water conditions. With the improvements scheduled, the margins or dependabilities should increase in 1952 to 13.5 per cent under adverse conditions or 14.8 per cent under average conditions.

**Region V (South Central).** Reserves for the region as a whole are shown to

## PUBLIC UTILITIES FORTNIGHTLY

be more than adequate for December, 1949, with substantial increases through 1952. Capability figures include 360,000 kilowatts of hydroelectric generating capacity now under construction by the U. S. Army Corps of Engineers.

Region VI (West Central). Ability to interchange power between subareas within the region is practically nonexistent. Total reserves for the areas as a whole are indicated as being maintained at a satisfactory level in 1949 and increasing in succeeding years. Due to the uneven distribution of reserves and to the inadequacies of interconnecting facilities, it appears that some subareas will have more than adequate reserves at all times, while others have insufficient reserves in 1949, but with some improvement in subsequent years.

**R**EGION VII (Northwest). On the basis of present load estimates this region will be in the clear in the winter of 1949-50, if water conditions are even slightly above minimum. If average hydro conditions occur, there will be a favorable margin of 5.6 per cent between loads and capabilities. After the current year, however, the situation will grow progressively worse through 1952. Under median hydro conditions, the deficiency of ca-

pability below requirements in 1952 would be 3.2 per cent and under adverse hydro conditions (river flows as low as have occurred in the past) the deficiency will be 14.2 per cent.

Region VIII (Southwest). Existing interconnections practically permit complete integration of the systems operating in California. Present limitations in Arizona will largely be removed with completion of installation or transmission facilities in 1951. Additional capacity of about 800,000 kilowatts was completed in 1949, providing a margin even under adverse hydrological conditions of 12 per cent over the December, 1949, peak load of 5,400,000 kilowatts. Additional capacity now under construction or planned will provide margins over estimated loads under adverse hydrological conditions of 13.9 per cent in 1950, increasing to more than 18 per cent in 1951 and 1952. Under normal hydro conditions the margins would be 18.5 per cent in 1950, increasing to more than 23 per cent in 1951 and 1952.

The report includes several maps, charts, and tables, showing power capacity and power loads with reserve margins and the power supply and requirements of electric utilities in the U. S., and also shows the FPC regional division.

### Power Companies Offer to Strengthen Resources Development

**A** NEW long-range policy for joint government-public-private industry development of the nation's water power resources was advanced recently by 100 operating electric company members of the National Association of Electric Companies.

The program strongly reiterates the companies' support of flood-control, reclamation, and other conservation projects that are economically sound and that are judged to be feasible.

Embodied in a 20-page printed reply to a letter from Morris L. Cooke, chairman of the President's Water Resources Policy Commission, the program makes recommendations that would:

1. Assure adequate power at all times for the nation's growing economy.
2. Provide repayment of the government's investment through sale of power at regulated rates to municipalities, REA's, and investor-owned electric companies for transmission and distribution to consumers.
3. Make Federal hydro power available to all citizens without discrimination.
4. Strengthen, rather than weaken, the ability of private power companies to render service.

The proposals amount to a redefinition

## WHAT OTHERS THINK

and clarification of the position of the National Association of Electric Companies and call for closer cooperation between public bodies and industry in the interest of consumers and taxpayers.

MANY aspects of the government's power program are assailed in the recommendations. Criticism is aimed at administrative interpretations of statutes; operation of the so-called preference clauses which favor one group of citizens over other groups; duplicating facilities and transmission lines; lack of sound accounting methods at Federal projects; and avoidance of taxes by customers of publicly owned facilities which are paid by customers of privately owned companies.

The document states that close cooperation between government and private companies is essential to the continued growth of the nation's economy and for national defense.

Commenting on the recommendations, P. L. Smith, president of the NAEC, said:

This is the first time in two years that the members of NAEC have codi-

fied a comprehensive statement of their views. Our recommendations come at a time when the President's recent speeches have focused attention upon the need for industry and government working together, and when the Water Resources Policy Commission is engaged in studies which should lead to constructive legislation.

We hope our statement will help clear the atmosphere. We want people to know—as many do not know—that the electric companies in this country have always led and will continue to lead the world in expanding power facilities in the interest of national defense and a prosperous people. What we oppose is the lost motion and lost resources involved when the government, using scarce taxpayers' dollars, does work that the electric companies—their investors and their workers—stand ready, willing, and able to do.

The President's Water Resources Policy Commission, after reviewing such reports, is scheduled to submit its formal report to the President by December 1st. A Federal power policy is expected to come from this study.

## Blueprint of a Seventy Billion Dollar Security Market

THE new (1950) edition of the *Corporate Holdings of Insurance Companies* has been brought right down to December 31, 1949. It is available this month at the regular subscription price for this service. This is one of three volumes published by the United Statistical Associates, Inc., New York city, for use by investment firms and others requiring statistical information on insurance company portfolios.

The other two are *Municipal Holdings* and *Purchases and Sales*.

Despite the vast scope of its statistical classifications on investment activities of insurance companies in the United States and Canada *Corporate Holdings* is a simple and readily usable volume of 850

pages, in which the various insurance company investments are stated with relation to five categories of securities, each reported under an alphabetical list of operating companies:

1. Railroad Bonds and Stocks
2. Public Utilities Bonds and Stocks
3. Industrial Bonds and Stocks
4. Insurance Stocks
5. Bank and Trust Stocks

There is an alphabetical index of insurance companies, giving their addresses and executive officials. There is a separate listing of insurance companies not owning corporate issues.

Just by way of example of how simply the reference data are presented—the

## PUBLIC UTILITIES FORTNIGHTLY

securities of the Alabama Power Company, which is the first name listed alphabetically under the section on public utility holdings, show five different listings, for five respective securities issued by that utility company. In the case of the largest listing—Alabama 3½s (1972 first)—there are 75 different insurance companies, with holdings ranging from 2,000 to 10,000,000 bonds. Other public utility companies' securities are similarly classified.

**T**HE volume *Municipal Holdings* is slated to appear some time in July, while *Purchases and Sales* was available

in May. To develop such a large listing it was necessary to analyze statements of approximately 85 life, fire, and casualty insurance companies, fraternal orders, pension fund and retirement systems, Lloyd and reciprocal interinsurers, both domestic and Canadian, and the United States branches of foreign companies.

Statements were obtained from practically every state in the United States of America and from the Dominion of Canada. Every corporate issue owned by these companies has been embodied in this publication, except stocks of insurance service organizations wholly owned by insurance companies.

## Coöperation Urged in Transportation

**G**OVERNMENT ownership of all transportation may come within a decade unless the issues confronting the industry are dealt with constructively, Frank C. Rathje, president of the Transportation Association of America, said recently at a luncheon at the Biltmore hotel in New York city, sponsored by the association's board of directors.

Mr. Rathje, who also is president of the Chicago City National Bank & Trust Company, declared that "transportation is the key to the preservation of competitive enterprise" and that it is the collective responsibility of leaders of all enterprise to solve the problem. He added that the association hopes to have a program for consideration by Congress in 1951.

Pointing out that the association is the only organization dealing with the overall policies of transportation in the public interest, Mr. Rathje said it offered "a national framework for constructive action," and that it is "a clearing house of research and education, acting to coördinate and implement the efforts of others."

Mr. Rathje urged that "all forms of

transportation be fair to and with each other" and said "there must be fairness on the part of business executives and investors in their treatment of transportation."

"We are to be fair and frank with labor, with our administrators and elected representatives in Washington," he continued. "In turn, we demand that our government be fair to enterprise; that it support the basic concepts of the Constitution; that it stop its attacks on industry merely because of bigness; that it stop its wholesale arrogance; and that it cease to be all things to all men."

**J**AMES L. MADDEN, vice president of the Metropolitan Life Insurance Company, who participated in the discussion, asserted that government regulations tend to retard the further development of railroads and other forms of transportation and that what is needed is a minimum of regulation in the interest of the public.

Fred A. Poor, chairman of Poor & Company and of the association's budget and finance committee, presided.

**Q** "[Senator] Douglas didn't ask the Senate to cut the pork from the [rivers and harbors] bill. . . . All he requested was elimination of the baloney."

—EXCERPT from *Newsweek*.



# The March of Events



## In General

### Power Production Reserves Reached Ahead of Schedule

THE nation has reached its goal of an average of 15 per cent reserves of power production a full year ahead of schedule, according to Elmer L. Lindseth, president of the Edison Electric Institute. His statement came with an announcement of the results of the seventh semiannual power survey conducted by the institute's electric power survey committee. New construction in progress will maintain and bolster these reserves, he added.

Earlier surveys of the committee indicated that the average reserve generating capacity for the nation as a whole would not reach 15 per cent until 1951. The survey just completed shows a margin of 9,117,000 kilowatts, or 15.6 per cent for 1950, one year earlier than anticipated.

The actual margin of reserves in 1949 was 7,664,000 kilowatts, or 14.2 per cent, the survey revealed.

Only in two major areas and some localized areas will the estimated reserve figure for 1950 be below the 15 per cent mark—in the Pacific Northwest where a margin of 5.9 per cent under median hydro conditions is anticipated, and in the Southeast where a figure of 8.2 per cent is expected. Only in the Northwest, in case of drought, is there any likelihood of a power deficiency requiring load curtailment. The present water conditions in that area are far above normal, the survey showed.

Briefly, the survey reveals for the United States the following percentage margins between generating capacity and peak load demands: 1948, 6.6 actual

data; 1949, 14.2 actual data; 1950, 15.6 forecast; 1951, 18.9 forecast; 1952, 19.1 forecast; and 1953, 18.6 forecast.

Delivery time of heavy generating equipment has been reduced to two years, and, if the need arises, additional generating capacity can still be added in 1952 and 1953, according to the institute, which states that undoubtedly more will be added in 1953.

Noting that although the 1950 margins of reserves are only about one-half the prewar margins, the institute stated that it does not mean they are not generally adequate. Three sound reasons for this difference are the substantial increase in interconnection and power pool operations during and since the war; the great amount of new high efficiency, high load factor, equipment that has been installed, which requires less reserves; and prior to World War II employment was not at the high level now being experienced, which resulted in an abnormally high percentage of idle generating capacity for lack of power demand.

It should be recognized, the institute said, that already we have added 50 per cent of new generating capacity since the outbreak of World War II. If World War III were to come now, the institute continued, new generating capability could be built and interconnecting transmission lines constructed as fast as the average new munitions plant could be built and put into full operation.

Limitations due to shortages of materials, man power, and transportation for war production would again control, as in World War II, before the supply of electric power would become a critical factor, the survey concluded.



## U. S. Building Steam Plants for Europe

**S**TEAM-POWERED generating plants are replacing many of Europe's hydroelectric installations, according to a recent report of the Economic Coöperation Administration, which has thus far approved the expenditure of \$125,000,000 of Marshall Plan funds for the construction of 23 new projects.

"A substantial portion of Europe's power plant is hydroelectric-based, and consequently subject to extreme seasonal supply," the ECA report said.

"A fundamental change is in progress," the report continued. "To date, the ECA has approved 23 power projects which ultimately will add nearly 1,000,000 kilowatts to European capacity.

"Virtually all are thermal installations designed to eliminate much of the traditional dependence on rain and snowfall, and to assure a more constant supply and distribution of electric power."

Nine of the projects are in Greece, nine in Italy, and five in other countries, the ECA report stated.

In a press interview, A. D. Griswold of ECA's power branch said that the largest expenditure has been \$20,000,000 on a thermal power plant in France. The smallest projects approved so far have required \$7,000,000 to \$8,000,000 in Marshall Plan funds, he added.

Paul G. Hoffman, ECA Administrator, in a recent speech stressed that Europe's primary need between now and 1952, when ECA aid is supposed to end, is new sources of power.

Although Europe's industrial output is 25 per cent above the prewar level, Hoffman said that new sources of power must be brought into production if Europe's industrial production is to expand sufficiently to put her back on her financial feet.

## Peat-fired Generating Plant Opened in Ireland

**C**OINCIDENTAL with U. S. congressional study of peat as a possible fuel source for steam-generating plants,

Irish engineers have seen the realization of a 30-year dream—mass production of electric power from peat, low-grade fuel of Erin for centuries. The dream came to reality with the recent opening of a peat-fired generating plant at Portarlinton, Ireland, about 50 miles south of Dublin.

The plant, opened by Daniel Morrissey, Minister of Industry and Commerce, will produce an additional 90,000,000 units of electricity annually for the nation's growing industries as two additional plants are rushed to completion.

Revolutionary in Ireland, the peat-electricity process was devised by Sir John Purser Griffith who, near the turn of the century, conceived the idea of putting Ireland's primitive fuel to profitable use.

## Ickes Joins Tidelands Battle

**F**ORMER Secretary of the Interior Harold L. Ickes has challenged the right of California to continue its oil and gas operations in tidelands areas.

In a petition recently filed in the United States Supreme Court, Ickes suggested that the operating stipulations between the state of California and the United States be nullified. The stipulations are "an attempt to strike down" the Supreme Court's decision of June 23, 1947, depriving California of its rights to the tidelands, the petition asserted.

Ickes attacked the California State Land Commission for having agreed to enter into leases with the Signal Oil Company and Southwest Exploration Company in the Huntington Beach field. He told the court that the agreements constitute "grave trespass," despite their approval by the Justice and Interior departments. He also declared the Standard Oil Company of California "has a large, if not controlling, interest" in the Signal Oil Company.

The former Interior Secretary petitioned the court as a "member of the bar of the Supreme Court," and said he "appreciated the fact that the court could have no knowledge of the information contained in this suggestion."

## THE MARCH OF EVENTS

Expressing fear that the operating stipulation between California and the United States—renewed annually since July, 1947—would be continued for a fourth year, Ickes urged the high court to enter an order calling on state and Federal authorities to “show cause why such stipulations should not be set aside as inconsistent with and contrary to the decision of the court.”

Ickes named former Attorney General Tom C. Clark and former Secretary of Interior Julius A. Krug, as well as the present Attorney General J. Howard McGrath and Interior Secretary Oscar L. Chapman, in his complaint. California's attorney general also was accused of trying to cause the California decision of the Supreme Court to be “null and void.”

### TVA Tax Payments Announced

TENNESSEE VALLEY AUTHORITY and TVA power distributors on June 30th will make in lieu of tax payments approximating \$6,000,000, it has been announced by TVA's General Manager George F. Grant. Payments by TVA will total about \$2,840,000, while payments by municipal and coöperative distributors of TVA power will reach an estimated total of \$3,500,000, according to Mr. Grant's announcement.

Amounts to be paid by TVA to states

and their counties are Alabama, \$496,877; Georgia, \$68,126; Kentucky, \$214,746; Mississippi, \$66,892; North Carolina, \$128,601; Tennessee, \$1,485,450; Virginia, \$10,000.

Payments have been made monthly during the past fiscal year on the basis of a preliminary schedule. Where necessary, checks for May and June will be adjusted so that the sum of the twelve payments during the fiscal year will equal the amounts finally determined to be payable to each state and county.

### Gas Line Companies Formed

THE incorporation of two western pipe-line companies—the Alberta Natural Gas Company and Prairie Transmission Lines, Ltd. — recently ended one of the bitterest filibusters in the history of the Canadian Parliament.

Both the Citizens' Commonwealth Federation and the Progressive-Conservative parties fought to amend the bill to force the companies to agree to build their main lines through Canada to the Pacific coast before entering the United States.

The newly formed companies now will seek the right to construct a natural gas pipeline from the Alberta oil fields to the Pacific coast industrial market, which would include the state of Washington, where a corporation was recently formed.

## Indiana

### Utilities Win Advertising Awards

THE Indianapolis Power & Light Company and the Citizens Gas & Coke Utility won awards in the 1950 Better Copy Contest of the Public Utilities Advertising Association.

First award in the electric service advertising division and second award in the window display division went to IP&L, while CG&CU received second awards in both the newspaper advertisements and outdoor advertising divisions, and third in the window display division.

## Kentucky

### Utility System Sale Authorized

THE state public service commission has approved and authorized the

Community Public Service Company, of Walton, to sell its electric distribution system in Kentucky for \$2,000,000.

## PUBLIC UTILITIES FORTNIGHTLY

The commission approved the sale of the company's property in Boone, Campbell, Grant, and Pendleton counties to the Union Light, Heat & Power Company, of Covington, for \$1,150,000. It also approved the sale of properties in Adair, Bath, Gallatin, Garrard, Lincoln, Montgomery, Owen, Rockcastle, and Russell counties to the Kentucky Utilities Com-

pany, of Lexington, for \$850,000.

In addition, the commission stipulated that Union and KU are to pay Community a fair value for supplies on hand and for any improvements to the system since January 1st.

Community is a distributor only, and has been buying its power at wholesale rates from Union and KU.

## Nebraska

### Decision May Affect Rate Validity

**A** RECENT decision by Federal Judge James A. Donohoe, of Omaha, may have far-reaching effects "on the validity of every public utility, railroad, bus, and truck rate published under the authority of Nebraska law," according to attorneys for nine common carriers who sued a gravel company to recover triple damages of \$138,000.

The plaintiffs claimed they were not paid rates for hauling equal to those set by the state commission.

In dismissing the suit, Judge Donohoe ruled that the railway commission rates in question are invalid. He said that the commission, in fixing the rates, did not comply with the Nebraska Rules for Administrative Agencies, which provide that each agency must file its rules with the Secretary of State. He decided that rates were rules.

## New Hampshire

### Senate Investigation of Utility Rejected

**I**NVESTIGATION of the Public Service Company of New Hampshire in connection with the current power rate has been rejected by the state senate on a 12-to-11 roll call vote.

The measure, a concurrent resolution, also called for an investigation of the state public service commission and the conduct of Attorney William L. Phinney in April when the rate case was con-

sidered by the Merrimack county grand jury.

The resolution was designed to set up a legislative interim committee—composed of senate and house members—to make the probe and report to the regular session of the general court when it convenes next January.

Senator Harold O. Pierce, of Walpole, who spearheaded the attack on the resolution, insisted that if there was to be an investigation it should be handled by the attorney general.

## Oklahoma

### Power Line Ruling Delayed

**T**HE school land commission has deferred until an undecided future date whether a private power company should have the same treatment as REA-financed lines in obtaining rights of way over school lands.

JUNE 8, 1950

Protest had been lodged with the commission against the charge imposed on the private company—Oklahoma Gas & Electric Company—while the REA-financed lines were permitted easement without charge.

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## THE MARCH OF EVENTS

stated that he thought the private and REA lines should receive the same treatment, but the commission put off decision until some later meeting.

Lee said a charge of \$5 a pole for easement of right of way was made against the private companies, while the commission had a policy of not charging REA lines for the right of way on the

grounds that it was granted for mutual benefit. "If it is worth \$5 to the private companies it looks as if it ought to be worth that much to the others," he said, adding that a representative of the Rural Electrification Administration had been invited to appear before the commission along with representatives of the private companies.

## South Carolina

### Santee-Clark Hill Hook-up Forecast

GENERAL Manager R. M. Jefferies of the South Carolina Public Service Authority has announced that "rapid progress" has been made toward an agreement for the interconnection and interchange of power between the state-owned Santee-Cooper hydroelectric development and the federally owned Clark Hill project, now under construction on the Savannah river in McCormick county in South Carolina and Columbia county in Georgia.

Jefferies' announcement followed two days of conferences between Santee-Cooper executives and representatives of the Southeastern Power Administration, Interior Department's new power marketing agency, designed as an eastern counterpart of the Southwestern Power Administration. The interconnection will greatly strengthen Santee-Cooper, Jefferies said, noting that as a state organization supplying coöperatives, Santee-Cooper has "highest" priority on power that will be generated at Clark Hill.

## Tennessee

### Jourolmon to WRPC

LEON JOUROLMON, for more than ten years a member of the Tennessee Railroad and Public Utilities Commission, has been appointed a consultant to the Water Resources Policy Commission with headquarters in Washington, D. C. He had been practicing law in Nashville

since January, 1948, when he resigned from the state commission.

In announcing the appointment, WRPC Chairman Morris Llewellyn Cooke said Mr. Jourolmon will work on the electric power phase of the water resources studies being undertaken at the direction of President Truman.

## Wisconsin

### State Utility Antistrike Law to U. S. Supreme Court

THE constitutionality of Wisconsin's public utility antistrike law, recently held valid by the state supreme court for the second time (see page 719 of May 25th issue), will be tested in the U. S. Supreme Court, according to attorneys for Division 988 of the (AFL) Amalgamated Association of Street, Electric

Railway, and Motor Coach Employees of America.

It is reported that the appeal will be based on the fact that the U. S. Supreme Court has outlawed part of a Michigan labor law, because it conflicted with the "free strikes" provision of the National Labor Relations Act.

The Wisconsin statute empowers the state to step into utility disputes.



## Progress of Regulation

### Limitation Imposed on Fees of Dealers Who Secure Exercise of Subscription Warrants

THE New England Gas & Electric Association was permitted by the Securities and Exchange Commission to offer to holders of outstanding shares of common stock the right to subscribe for approximately 173,126 shares of additional common stock at a price of \$13 a share on the basis of one share of the additional common stock for each eight shares of common stock held. Persons exercising the right to subscribe will also have the privilege of subscribing for additional shares not subscribed for through the exercise of the rights.

The commission approved the purpose of the undertaking, which would increase the ratio of common stock equity. It gave careful consideration, however, to the expenses involved. The proposed sale would not be underwritten but a dealer-manager group would undertake to form and manage a group of security dealers, which should include the managers, to solicit subscriptions to purchase the additional common shares being offered.

The company proposed to pay the dealers a fee of 40 cents per common share purchased and to pay the managers for their services, as such, an additional fee equal to 10 cents a share for each share on which a dealer's fee is paid. In addition, the company would reimburse the managers for reasonable out-of-pocket expenses, including legal fees, not in excess of \$8,000.

The commission noted that a maximum payment of \$86,563 would be required

but this theoretical maximum cost would not, in practice, be realized since the company's officers and trustees had agreed that such warrants as are exercised by them would not bear dealers' names. Of course, not all warrants exercised by other stockholders would bear such names.

The commission said that in view of the extent of the proposed discount from market price, the presence of oversubscription privileges, a recent sale of common stock when the offer was oversubscribed, and the limited size of the proposed offering, there was a question whether the proposed method of sale and fees were economic as compared with available alternatives. The management apparently considered that the success of its previous offering was in substantial part due to its use of a dealer-manager group.

The commission was not prepared to disagree with the company and permitted the proposed declaration to become effective.

The commission, however, saw no justification for permitting unlimited payments to dealers in respect of the exercise of warrants by a single original holder. The commission conditioned its approval order to require that not more than \$300 be paid dealers in respect of any single original registered holder of record of warrants, except that where a broker, dealer, custodian, or nominee as the original registered holder of warrants, advises

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## PROGRESS OF REGULATION

the treasurer of the association that the rights evidenced by such warrants are beneficially owned, in whole or in part, by others, this limitation of \$300 shall

be applied separately as to each of the beneficial owners. *Re New England Gas & Electric Asso. (Release No. 9843, File No. 70-2374).*



### Serial Notes Permitted to Replace Preferred Stock of Holding Company

THE Securities and Exchange Commission, under ordinary circumstances, considers it inappropriate, under the standards of the Holding Company Act, to approve the issuance of senior securities by holding companies which have subsidiaries with substantial amounts of senior securities outstanding in the hands of the public. The commission, however, permitted American Gas & Electric Company to issue serial notes to provide funds for the redemption of cumulative preferred stock and to prepay certain serial bank loan notes.

The commission said that in this case the holding company already had senior

securities in the form of its preferred stock. The effect of the proposed transactions is merely to replace the present preferred stock with another senior security, the new serial notes. These notes, unlike the present preferred stock, will be issued under a program which will provide for their regular retirement and their complete elimination within fifteen years. Under all the circumstances, the commission concluded that the issuance of these notes upon the terms proposed was appropriate and in accordance with the applicable statutory standards. *Re American Gas & E. Co. (Release No. 9819, File No. 70-2365).*



### Statute Authorizing Commission Condemnation of Utility Property Interpreted

A PUBLIC utility district's petition for an order fixing the amount of compensation to be paid for land acquired from a water utility was dismissed by the California commission. The statute under which the petition was filed [§ 47(b) of the Public Utility Act] did not give it authority, the commission said, to value property simply because it was owned by a public utility. The property would have to be used by a utility in rendering service to the public in order to justify the

commission in acting under this section.

The commission pointed out that it had never exercised jurisdiction over the utility owning the property, that no showing had been made of the use of the property for a utility purpose, and that the district by obtaining possession of the property by court judgment had lost its right to proceed under § 47(b). *Re Mariposa Pub. Utility Dist. (Decision No. 43569, Application No. 30434).*



### Solicitation of Contributions by Protective Committee Subject to SEC Control

THE United States Court of Appeals for the District of Columbia Circuit upheld the decision of the Securities and Exchange Commission (March 31, 1949) Release No. 8965, 79 PUR NS 497, that it had power to regulate the

solicitation of contributions to finance fees and expenses of a protective committee for common stockholders. The commission's order denying the right to solicit funds, in the opinion of the court, did not impose an undue restriction on



## PUBLIC UTILITIES FORTNIGHTLY

the committee's power to represent its constituents effectively.

The committee contended that the commission has no jurisdiction to regulate or prohibit the circularization of stockholders for the purpose of applying funds to finance the committee; that the action taken by the commission violates the committee's right of free speech under the First Amendment of the Constitution; and that, in any event, the commission's action was arbitrary and capricious. The committee made the further contention that the Long Island Lighting Company (the company involved) is not subject to the jurisdiction of the commission since it is not engaged in interstate commerce.

The court found a basis for commission jurisdiction in § 12(e) and § 11(f) of the Holding Company Act. The first section relates to the solicitation of proxies and authorizations and the second section relates to regulation of fees and expenses in reorganization proceedings. The court decided that the commission was correct in finding that the proposed action amounted to soliciting an "authorization" within the meaning of § 12(e). It was said that to construe the provisions of § 12(e) as covering only the solicitation of "any proxy, power of attorney, consent, or authorization," in so many words, would defeat the claimed congressional intent to give the commission a needed measure of control over the relationship between stockholders and persons who seek to represent these

holders in reorganization proceedings.

The extent and quality of representation may be intimately related to the size of the representative's fee, but the court said that it could not conclude from this that every group in a reorganization must be allowed unlimited fees. Protection of investors requires a different standard and Congress has so decreed by the provisions of § 11(f).

The First Amendment of the Constitution, the court continued, was designed to aid and support the existence of a democratic society by preserving, free from interference, an unlimited market place for the interchange of ideas. Dissemination of ideas was not involved in this case. The commission had not endeavored to control the text of the recommendations of the protective committee to the stockholders, or to prevent them from discussing the merits of the proposed reorganization. The effort was rather to prevent the committee from collecting its fees in a particular manner.

The question of commission jurisdiction over the company on the basis of the commerce clause of the Constitution was held not properly to be before the court. It had been presented only in the brief and on oral argument. Even so, the court noted that a district court approving a reorganization plan had ruled that there was a sufficient constitutional basis for Federal legislation and the court saw no reason to disagree with that conclusion. *Halsted et al. v. Securities and Exchange Commission (No. 10289)*.



### Delay in Considering Television Application Explained

**A**n applicant for authority to operate a television station in the Detroit area appealed to the United States Court of Appeals for the District of Columbia when it was, in the words of the court, "aggrieved by its treatment" before the Federal Communications Commission.

The background of the case is as follows: Five television channels were assigned to the Detroit area under the national allocation plan for television broadcasting adopted by the commission in

1945. Three applications, including that of the company bringing the appeal (United Theatres), were either on file at the time of the allocation or were filed shortly thereafter. The commission granted two of these applications, leaving three channels unassigned. Later another company filed an application for a channel. The commission granted this application without acting on United Theatres' application.

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## PROGRESS OF REGULATION

from the Detroit area to permit its use at Windsor, Canada, leaving one channel available with one application on file. Thereafter another application was filed and a competitive hearing scheduled for the one channel available.

In the meanwhile one of the original applicants had petitioned the commission for an extension of time beyond the period allowed it in its original application for the completion of its construction. The commission granted this without a hearing.

The appeal was based on the claim that this extension of time was improper and that upon the failure of the station to complete construction within the time stipulated, it became a mere applicant and should be made a party to the competitive hearing. The court ruled this position untenable for the reason that the statute authorized the commission to extend construction time upon application seasonably made, as was the case in the matter in question.

The other question to which great em-

phasis was attached by the court was the apparent passing over of the application of United Theatres while petitions filed much later were being afforded expeditious treatment. The court pointed out that the commission cannot arbitrarily withhold consideration of an application until such time as there are pending enough applications to require a competitive hearing.

In this case a good reason was found for the inactivity on the application. United Theatres is a subsidiary of Paramount Pictures, and only five stations are allowed to one licensee, including subsidiaries. The delay in consideration of United's application was to determine which of the many applications filed by Paramount subsidiaries throughout the country the controlling owner wished to prefer. Under such circumstances the action of the commission was held not to be improper. *United Detroit Theatres Corp. v. Federal Communications Commission (WXYZ, Intervener)* 178 F2d 700.



### Possible Revenue Law Changes Provide No Basis For Working Capital Allowance

A TELEPHONE company's application for a rate increase was partially approved by the Kentucky commission. The commission allowed the company an increase in rates for metropolitan exchange service but nullified new rates for other local service and for intrastate toll service.

The company had been collecting the new rates under bond. The commission order directed that refund be made of all amounts collected over and above the authorized rates.

In its consideration of the evidence supporting the company's application, the commission approved for this proceeding the use of the separation procedure prescribed by the NARUC Separations Manual. The commission expressly reserved the right to consider other questions arising in the future regarding the use of the manual.

Plant under construction was excluded

from the rate base, but interest on the company's accumulated investment in construction costs until such new plant is available to public use was allowed.

Property held for future use was properly included in the rate base, the commission ruled, since no interest was capitalized while the property was carried in this account.

The company had arrived at an intangible figure for working capital allowance by using a formula. This sum was rejected by the commission when it appeared that accrued taxes which were not yet due exceeded the estimated cash requirement. The commission observed that local service revenues are billed and collected in advance.

The company's contention that a working capital allowance was necessary because of "a definite possibility that the corporate income tax laws might be changed in such a way as materially to

## PUBLIC UTILITIES FORTNIGHTLY

affect the funds available from tax accruals" was overruled. Regulatory bodies, the commission pointed out, may not anticipate changes in the law but must govern themselves by the law as it presently exists.

Reproduction cost new presented as proof of value was rejected as being too conjectural since it was premised in large part upon Western Electric Company translators. With the value of the dollar fluctuating, the commission continued, a reproduction cost new study made in 1949 may already be obsolete.

Another difficulty with using reproduction cost new less observed depreciation is that the determination of depreciation

is a speculative matter. The commission asked: "How can one determine the depreciation that has taken place in an electric light bulb that is still burning?"

The commission adopted a book cost rate base as approximating the dollars invested in the business and approved rates which would allow a return of 6 per cent.

The rates requested for metropolitan exchange service would provide the company with sufficient additional revenues to produce a 6 per cent return. Consequently, with the approval of these rates, the requested increases for other local service and for intrastate toll calls were denied. *Re Citizens Teleph. Co. (Case No. 1916)*.



### Air Freight Forwarders Exempted from Certificate Requirement

THE United States Court of Appeals affirmed a Civil Aeronautics Board order creating a class of utilities known as air freight forwarders.

"Forwarders" have become active during the past year in procuring shipments, assembling them, and tendering the consolidated lot to an air carrier for transportation at a bulk rate lower than the rate collected by the forwarders from the shippers. The forwarder assumes the responsibility of a carrier though he carries no merchandise himself but ships entirely by air in other carriers' planes. Upon arrival of the consolidated shipment at the airport of destination, the forwarder divides the shipment and distributes it among individual consignees. The profit of the forwarder is the difference between his expenses and the

"spread" between what he receives from shippers and what he pays to the airline.

A number of airlines vigorously protested the board's action and appealed to the Federal court.

The court recognized the authority of the board to create "air freight forwarders" and to permit them to operate without certificates of public convenience and necessity. This action of the board, in permitting forwarders to operate merely on a showing that their business would not be inconsistent with the public interest, was considered proper since the forwarders, while subject to the Civil Aeronautics Act, do not engage in any air operation but conduct all their activities on the ground. *American Airlines, Inc. et al. v. Civil Aeronautics Board, 178 F2d 903*.



### Contracts with Shippers Do Not Determine Status

THE California commission ordered a motor carrier to terminate operations after finding that it was actually a common carrier operating under a contract carrier permit. The existence of contracts between the carrier and shippers was held not to be determinative of its status as a private carrier because of its

holding itself out to serve the public. The commission ruled that this and the general nature of its service indicated that the operation was broader than that of a private carrier. *Pacific Southwest R. Asso. v. Samuelson and Gilbert (Circle Freight Lines) (Decision No. 43829, Case No. 4928)*.

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## PROGRESS OF REGULATION

### Reversal of Passenger Train Schedule Ordered

THE Wisconsin commission granted in part a railroad's petition for authority to curtail service for which there was not too great a public demand where the financial loss suffered by the railroad was satisfactorily established.

At the request of a large number of residents of a small town at one end of the line involved, the commission directed the railroad to reverse its daily run from the large city at one end to the small town

so that residents of the town could use the train to go into the city for a day's shopping and take the evening train back home. The commission did not feel that the reversal of direction would seriously affect mail or express revenues but directed the railroad to keep careful record of the patronage of the trains for a trial period. *Berlin Chamber of Commerce v. Chicago, M., St. P. & P. R. Co.* (2-R-2077).



### Other Important Rulings

THE Federal Power Commission dismissed, for lack of jurisdiction, an electric company's application for authority to construct a pipeline to transmit natural gas for use as boiler fuel in its generating plant, because the facilities would not be used for the transportation or sale of natural gas in interstate commerce for consumption by others. *Re Jersey Central Power & Light Co.* (Docket No. G-1324).

The Massachusetts Department of Public Utilities, in allowing a bus company a return of slightly more than 12 per cent on its net investment, commented that such a return was not unreasonable because of the extreme sensitivity of the transportation business to economic change and the fact that a slight diminution in revenue often seriously affects the ability of carriers to meet their obligations. *Re Massachusetts N. E. Transp. Co.* (DPU 8469-A).

The New Jersey Board of Public Utility Commissioners denied rate increase applications of a number of railroads operating in the northern part of the state where the proposed schedules would subject New Jersey commuters to the highest rates in the area and would be discriminatory because of lower rates for comparable service in contiguous areas of New York state. *Re Delaware, L. & W. R. Co.* (Docket Nos. 4505, 4416, 4471, 4613, 4456, 4632, 4000).

The Pennsylvania commission held that, in allocating the cost of improving a highway bridge across a railroad, it is not bound by a contract between the railroad and a municipality placing the obligation to reconstruct and maintain the bridge upon the railroad, since, after the cost has been allocated, the parties to the contract may secure such reimbursement as they may be entitled to under that agreement. *Public Utility Commission v. Reading Co. et al.* (Complaint Docket No. 14476).

A city's petition to require the construction of a railroad grade crossing was denied by the New Jersey commission because such construction would be contrary to the state policy of grade-crossing elimination, to the carrying out of which millions of dollars have already been dedicated, and because the new crossing would benefit in nominal measure only a limited number of residents of the section. *Re Pleasantville* (Docket No. 4573).

The Wisconsin commission denied a sanitary district's application for authority to establish what it termed a connection charge which was in no way related to the actual cost of placing laterals, but was, in fact, designed to equalize assessments between improved and unimproved lots. Such matters, the commission ruled, are not within its jurisdiction. *Re Greenfield Heights Sanitary Dist.* (2-U-3134).

## PUBLIC UTILITIES FORTNIGHTLY

The Indiana commission dismissed a paper company's action for overcharges against a motor transportation company where neither tariffs nor contracts pertaining to the services involved had been filed with the commission, so as to provide a basis for commission jurisdiction. *Paper Arts Co., Inc. v. Indianapolis Railways, Inc.* (No. 20885).

The Pennsylvania commission held that the original cost of utility property when first devoted to public service is a proper measure of value in a rate proceeding. It stated that it is also required to give consideration, among other things, to reproduction cost based on the fair

average price of the materials, property and labor. *Public Utility Commission v. Scranton-Spring Brook Water Service Co.* (Complaint Docket Nos. 14753 et al.).

Air carriers should share the burden of promoting a state as a summer vacation area only to the extent that such promotion can be justified as a means of improving their net financial condition, the Civil Aeronautics Board ruled, in denying an airline's petition to establish excursion fares to Florida at a substantially lower level than current charges for similar services. *Re Summer Excursion Fares* (Docket No. 4166).

## Titles and Index

Preprints in This Issue of Cases to Appear in  
PUBLIC UTILITIES REPORTS

### TITLES

|   |             |    |
|---|-------------|----|
| Central Vermont Pub. Service Corp., Re .....                        | (VtSupCt)   | 47 |
| Chesapeake & P. Teleph. Co., Ex Parte .....                         | (Va)        | 61 |
| Cincinnati v. Public Utilities Commission .....                     | (OhioSupCt) | 41 |
| Consolidated Edison Co., Meerow Press v. ....                       | (NYSupCt)   | 59 |
| Michigantown Cooperative Teleph. Co., Re .....                      | (Ind)       | 63 |
| Montana-Dakota Utilities Co., Northwestern Pub. Service Co. v. .... | (USCA)      | 33 |
| Northwestern Pub. Service Co. v. Montana-Dakota Utilities Co. ....  | (USCA)      | 33 |
| Piedmont Nat. Gas Corp., Re .....                                   | (FPC)       | 39 |

### INDEX

|   |  |
|---|--|
| Appeal and review—rate order, 41.   | Rates—electric sales under Federal Power Act, 33; free interchange telephone service, 63; jurisdiction of court, 33; use of test period, 47; wholesale electric rates, 33.     |
| Certificates of convenience and necessity—denial because of discriminatory service contract with electric company, 39.  | Return—effect of capitalized interest during construction, 47; electric company, 41; guaranty of net revenues, 47; investor and consumer interests, 47; telephone company, 61. |
| Courts—jurisdiction over fraud involving exchange of electricity, 33.   | Revenues—necessity of bill analysis or customer classification, 41.  |
| Depreciation—annual allowance, 41.  | Service—right to direct or alternating electric current, 59.   |
| Electricity—Federal Power Commission's jurisdiction over wholesale rates, 33; gas supply to electric plant, 39; jurisdiction of court over wholesale rate, 33; direct or alternating current, 50. | Valuation—construction work in progress, 47; future additions to plant, 47; rate base determination, 47.   |
| Expenses—rate case expenses, 41; taxes, 41.   |  |
| Injunction—violation of Federal Power Act, 33.  |  |

*Public Utilities Reports (New Series)* are published in five bound volumes annually, with an Annual Digest. These Reports contain the cases preprinted in the issues of *PUBLIC UTILITIES FORTNIGHTLY*, as well as additional cases and digests of cases. The volumes are \$7.50 each; the Annual Digest \$6.00. *Public Utilities Reports* also will subsequently contain in full or abstract form cases referred to in the foregoing pages of "Progress of Regulation."



Northwestern Public Service Company

v.

Montana-Dakota Utilities Company

No. 13,887

— F2d —

April 4, 1950

**A** PPEAL from judgment of District Court awarding reparation to one electric company against another after determining that rates for wholesale electric energy exchanged between them were unreasonable; judgment reversed and complaint dismissed. For earlier court decision, see (1947) 71 PUR NS 353, 73 F Supp 149.

*Rates, § 7 — Jurisdiction of court — Wholesale electric rates — Federal Commission authority—Reparation.*

1. The district court does not have power to determine the reasonableness of rates for wholesale electric energy exchanged by utilities pursuant to contracts filed with the Federal Power Commission, nor does it have authority to award reparations on such exchanges, since the power over such matters is vested exclusively in the Federal Power Commission, p. 34.

*Rates, § 7 — Jurisdiction of court — Wholesale electric energy — Requirement of prior Commission action.*

2. The reasonableness of wholesale electric rates filed with the Federal Power Commission will not be considered by the courts until such rates have come before the Commission for its consideration, p. 37.

*Rates, § 252 — Adherence to schedules — Wholesale electric energy — Sales under Federal Power Act.*

3. A company transmitting electric energy on a wholesale basis interstate must collect the charges named in the rates filed with the Federal Power Commission and the purchaser must pay those rates so long as they are not changed in the manner provided by the Federal Power Act, p. 37.

*Courts, § 19 — Jurisdiction over fraud complaint — Exchange of electric energy — Commission jurisdiction.*

4. Jurisdiction over a controversy in which fraud practiced by one electric utility upon another in the purchase and sale of electric energy is in question is not vested in the district court but in the Federal Power Commission, p. 38.

*Damages, § 2 — Jurisdiction of court — Exhaustion of administrative remedies.*

5. A party is not entitled to bring a court proceeding for damages for a supposed injury until prescribed administrative remedies have been exhausted, p. 38.



# UNITED STATES COURT OF APPEALS, EIGHTH CIRCUIT

## *Injunction, § 54 — Parties — Violations of Federal Power Act.*

Statement that while the Federal Power Act provides that the Commission may bring an action in the proper court of the United States to enjoin violations of the act and to enforce compliance with the act or any of its rules or regulations, it does not imply that aggrieved parties may bring such action, p. 36.

APPEARANCES: Jacob M. Lashly (Max Royhl, Sydney K. Schiff, Fredric H. Stafford, Paul B. Rava, Pam, Hurd & Reichmann and Lashly, Lashly, Miller & Clifford were with him on the brief) for appellant; John C. Benson (Pat Morrison, H. F. Fellows, Rodger L. Nordbye, and Faegre & Benson were with him on the brief) for appellee; Howard E. Wahrenbrock, Assistant General Counsel, Federal Power Commission (Bradford Ross, General Counsel, and Louis W. McKernan, Principal Attorney, Federal Power Commission, were with him on the brief) for Federal Power Commission, *amicus curiae*.

Before Sanborn, Thomas, and Johnson, CJJ.

THOMAS, CJ., delivered the opinion of the court:

[1] This is an action brought by appellee as plaintiff in the district court on February 3, 1947, against appellant-defendant to recover damages according to the principles of the common law.

The parties, corporations organized under the laws of Delaware, are both engaged in the electric public utility business, the plaintiff chiefly in North Dakota and the defendant in South Dakota. The plaintiff brings the action as assignee of its predecessors. Prior to July 1, 1939, the Northern Power and Light Company and the North Dakota Power & Light Company, two Delaware corporations,

were engaged in the electric public utility business in North Dakota. On the date named the two corporations merged into one corporation under the name of Dakota Public Service Corporation, which by the terms of the merger became the owner of the business and properties of its two predecessors. On October 19, 1945, the Dakota Public Service Company assigned to Montana-Dakota Utilities Co., plaintiff here, all claims, demands, and causes of action which it had against defendant.

Federal jurisdiction is based upon § 1331 of Title 28, USCA, upon the theory that the action arises under the "... laws of the United States," namely, the Federal Power Act, 16 USCA § 824, *et seq.*

The controversy involves the period from September 1, 1935, to October 19, 1945. During this period plaintiff's predecessors and defendant operated under joint management in contiguous territory, and their lines were interconnected at several points. They entered into contracts for the exchange of electric energy and for the allocation of joint expenses. In this action plaintiff seeks to recover from defendant alleged unreasonable rates and charges for electric energy in interstate commerce at wholesale exacted from its predecessors by defendant in violation of the Federal Power Act; and to recover, also, the difference between amounts alleged to have been paid by

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NORTHWESTERN P. S. CO. v. MONTANA-DAKOTA UTIL. CO.

defendant to such predecessors for electric energy and the reasonable costs of such energy on the ground that all such underpayments were in violation of the Federal Power Act. It is also alleged that all such excessive payments exacted from plaintiff's predecessors and such underpayments by defendant to such predecessors were fraudulent and unlawful.

The fraud charged was alleged to consist of (1) the exaction of unreasonable rates and charges by defendant through the medium of common officers and directors of defendant and of plaintiff's predecessors and (2) the improper filing by defendant of some rate schedules and the belated filing of others.

The record shows that all of the contracts for the interchange of electrical energy between defendant and plaintiff's predecessors fixed rates based upon per kilowatt-hour service, and that such contracts were all filed by both defendant and plaintiff's predecessors with the Federal Power Commission, although some of them were filed after they had been put into effect. But they were all approved as filed by the Commission. Certain agreements for allocation of joint management expenses were not filed on the assumption that they did not affect rates.

The defendant, prior to the trial, moved the court to dismiss the complaint for want of jurisdiction over the subject matter, asserting inter alia that the "alleged cause of action does not really and substantially involve a dispute or controversy respecting the validity, construction or effect of the Constitution or laws of the United

States nor does a determination of this suit depend thereon."

The motion was overruled; the case was tried to the court without a jury; findings of fact and conclusions of law were filed by the court and judgment rendered for plaintiff and against defendant for the total sum of \$779,958.30. The judgment consisted of

(1) \$229,214.46 representing the amount by which the defendant had paid less for electric energy delivered to it from 1935 to 1945 at the filed rate than the court determined would have been a "just and reasonable" rate, plus \$82,417.85 interest.

(2) \$196,021.51, interconnection rental charges received by defendant under an agreement filed as defendant's Rate Schedules FPC Nos. 3, 5A, 6, and supplement 1, plus \$91,340.18 interest.

(3) \$111,665.05, interchange capacity charges received by defendant under agreements filed as defendant's Rate Schedules FPC Nos. 4 and 6, and supplement No. 1, plus \$43,866.13 interest.

(4) \$19,214.76 received by defendant as reimbursement for a share of dispatching services initially paid for by it, pursuant to a joint management agreement not filed, plus \$6,213.38 interest.

The defendant-appellant contends, first, that the court erred in refusing to dismiss the complaint for lack of jurisdiction over the subject matter in that under the applicable statute jurisdiction over electrical utility rates in interstate commerce is vested exclusively in the Federal Power Commission.

The plaintiff in its brief contends that the court had jurisdiction to ad-

# UNITED STATES COURT OF APPEALS, EIGHTH CIRCUIT

judicate its claims under the Federal Power Act because the rates and charges sought to be recovered were collected in violation of § 205 of the Federal Power Act (16 USCA § 824d), in that (1) § 205(a) of the act declares that all unjust and unreasonable rates and charges are unlawful, and the rates and charges in dispute are alleged to be unjust and unreasonable; and (2) the rates in issue were illegal because defendant failed to comply with the filing provisions of § 205(d) of the act.

The pertinent parts of § 205 (16 USCA § 824d) are:

"(a) All rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission . . . shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful.

"(b) No public utility shall . . . (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, . . .

"(c) . . . every public utility shall file with the Commission . . . schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

"(d) . . . no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule, regulation, or contract

relating thereto, except after thirty days' notice to the Commission and to the public. . . . [But] The Commission, for good cause shown, may allow changes to take effect without requiring the thirty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published."

And subsection (e) provides that "Whenever any such new schedule is filed the Commission shall have authority, either upon complaint or upon its own initiative" upon reasonable notice to enter upon a hearing and to make such orders as it finds to be justified.

The district court, we think, erred in assuming that because the complaint alleged that the rates and charges in issue were unjust and unreasonable it had power to determine just and reasonable rates, and if the filed rates were found to be unreasonable to declare them unlawful and grant reparations under § 205, *supra*. Nowhere does the act give the district court power to determine just and reasonable rates; that power is given to the Commission exclusively. Section 314 (16 USCA § 825m(a)) provides that the Commission may bring an action in the proper court of the United States to enjoin violations of the act and to enforce compliance with the act or any rule, regulation, or order of the Commission; and § 317 (16 USCA § 825p) provides that such actions may be brought in the district courts of the United States. The statute does not imply that aggrieved parties may bring such actions. See *Civil Aeronautics Board v. Modern Air Trans-*

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# NORTHWESTERN P. S. CO. v. MONTANA-DAKOTA UTIL. CO.

port (1950) 179 F2d 622, 624, 625, and cases cited.

[2] The plan or scheme of the Federal Power Act is analogous to that of the Interstate Commerce Act, and decisions under the latter act should be controlling here. This is especially true since the enactment of the Administrative Procedure Act. *United States v. Jones* (1949) 336 US 641, 672, 93 L ed 938, 69 S Ct 787. It is well settled that the reasonableness of rates will not be considered by the courts before application has been made to the Commission. The rates filed and approved by the Commission are the lawful rates until changed in the way provided by the act. *Texas & P. R. Co. v. Abilene Cotton Oil Co.* (1907) 204 US 426, 51 L ed 553, 27 S Ct 350; *Robinson v. Baltimore & O. R. Co.* (1912) 222 US 506, 56 L ed 288, 32 S Ct 114; *Mitchell Coal Co. v. Pennsylvania R. Co.* (1913) 230 US 247, 57 L ed 1472, 33 S Ct 916; *Skinner & Eddy Corp. v. United States* (1919) 249 US 557, 63 L ed 772, 39 S Ct 375; *Terminal R. Asso. v. United States* (1924) 266 US 17, 31, 69 L ed 150, 45 S Ct 5; *United States v. Interstate Commerce Commission* (1949) 337 US 426, 437, 93 L ed 1451, 69 S Ct 1410; *Backus-Brooks Co. v. Northern P. R. Co.* (1927) 21 F2d 4; *Chicago, I. & L. R. Co. v. International Milling Co.* (1930) 43 F 2d 93; *Woodrich v. Northern P. R. Co.* (1934) 71 F2d 732, 97 ALR 401; *Watab Paper Co. v. Northern P. R. Co.* (1946) 154 F2d 436; *Civil Aeronautics Board v. Modern Air Transport*, *supra*.

In *Great Northern R. Co. v. Merchants Elevator Co.* (1922) 259 US

285, 291, 66 L ed 943, 42 S Ct 477, the Supreme Court said:

"Whenever a rate, rule, or practice is attacked as unreasonable or as unjustly discriminatory, there must be preliminary resort to the Commission. Sometimes this is required because the function being exercised is in its nature administrative, in contradistinction to judicial. But, ordinarily, the determining factor is not the character of the function, but the character of the controverted question and the nature of the inquiry necessary for its solution. To determine what rate, rule, or practice shall be deemed reasonable for the future is a legislative or administrative function. To determine whether a shipper has in the past been wronged by the exaction of an unreasonable or discriminatory rate is a judicial function. Preliminary resort to the Commission is required alike in the two classes of cases. It is required because the inquiry is essentially one of fact and of discretion in technical matters, and uniformity can be secured only if its determination is left to the Commission. Moreover, that determination is reached ordinarily upon voluminous and conflicting evidence, for the adequate appreciation of which acquaintance with many intricate facts of transportation is indispensable; and such acquaintance is commonly to be found only in a body of experts."

[3] Moreover, the transmission of electric energy being at wholesale and interstate, the seller must collect the charge named in the filed rate and the purchaser must pay that rate. So long as the filed rate is not changed in the manner provided by the act it is to be treated as though it were a stat-

# UNITED STATES COURT OF APPEALS, EIGHTH CIRCUIT

ute, binding upon the seller and the purchaser alike. *Texas & P. R. Co. v. Cisco Oil Mill* (1907) 204 US 449, 51 L ed 562, 27 S Ct 358; *Pennsylvania R. Co. v. International Coal Mining Co.* (1913) 230 US 184, 197, 57 L ed 1446, 33 S Ct 893; *Pillsbury Flour Mills Co. v. Great Northern R. Co.* (1928) 25 F2d 66, 68.

Plaintiff's further contentions that the rates in issue were unlawful are without merit in view of our conclusion that upon proper complaint under the Federal Power Act the Commission had jurisdiction and was the proper tribunal in the first instance to determine all such contentions. In brief, those contentions are that the rates were illegal because defendant failed to comply with the filing provisions of the act; that thirty days' notice of filing as required by § 205(d) was not given; that the power, if it exists, to cure the defect in filing was nullified by the fraud of the defendant; and that defendant's acts were fraudulent because defendant and plaintiff's predecessors had common officers.

None of these contentions, however, defeated the jurisdiction of the Commission. They are in substance of the same effect as were the contentions of plaintiff in the case of *Watab Paper Co. v. Northern P. R. Co.* *supra*, as enumerated on page 438 of the report. This court held there that the Commission had jurisdiction to hear and determine all the issues, and concluded: "Manifestly, if the Commission had such jurisdiction, it had jurisdiction to reach either a correct or an incorrect decision, but whether correct or incorrect its determination could not be attacked collaterally as in this

proceeding attempted." The situation is equally true here. Had the case been submitted to the Federal Power Commission, the statute, § 313(b) (16 USCA § 825L(b)), gave to the plaintiff a right of appeal to the United States court of appeals.

[4, 5] Jurisdiction in such a controversy as this to investigate fraud practiced by an electric public utility in the past as well as in the present is vested not in the district court, but in the Commission by § 307 (16 USCA § 825f), wherein it is provided that "The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of this act or any rule, regulation, or order thereunder, . . . The Commission may permit any person to file with it a statement in writing . . . as to any or all facts and circumstances concerning a matter which may be the subject of investigation. . . ." The Commission by § 309 (16 USCA § 825h) is empowered to make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of the act. The Commission can, no doubt, correct its own mistakes. In case a complainant is aggrieved by the decision of the Commission its remedy is by appeal under § 313(b), *supra*. It is a "long-settled rule of judicial administration that no one is entitled to judicial relief for a supposed . . . injury until the prescribed administrative remedy has been exhausted." *Myers v. Bethlehem Shipbuilding Corp.* (1938) 303 US 41, 82 L ed

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NORTHWESTERN P. S. CO. v. MONTANA-DAKOTA UTIL. CO.

638, 58 S Ct 459; Macauley v. Waterman Steamship Corp. (1946) 327 US 540, 543, 90 L ed 839, 66 S Ct 712.

For the foregoing reasons the judgment appealed from is reversed with instructions to dismiss the complaint.

FEDERAL POWER COMMISSION

Re Piedmont Natural Gas Corporation

Docket No. G-1105  
March 30, 1950

**A**PPPLICATION of natural gas company for certificate of convenience and necessity involving supply to electric plant; denied.

*Certificates of convenience and necessity, § 81 — Grounds for denial — Discriminatory service contract.*

A natural gas company was denied a certificate to render service in an area in which there was a substantial demand and need for natural gas where, because of a discriminatory agreement to supply gas to an electric utility's generating plant, the company was not free to offer service on terms favorable to all classes of consumers.

By the COMMISSION: Upon consideration of the above-named application, as amended, for a certificate of public convenience and necessity, the evidence adduced at the hearings thereon, and the Commission's order, issued concurrently herewith, granting certificates of public convenience and necessity to the Commonwealth Natural Gas Corporation, the Virginia Gas Transmission Corporation, and the Tennessee Gas Transmission Company in Docket Nos. G-963, G-1261, and G-1273, respectively;

The Commission finds:

(1) Piedmont Natural Gas Corporation (Piedmont), a Delaware corporation, proposes to construct and operate natural gas facilities from a point in Chambers county, Texas, to the

Tidewater area of Virginia for the transportation of natural gas from the Gulf coast area of Texas and from Louisiana to communities in the Piedmont area of North Carolina, South Carolina, and Virginia and the Tidewater area of Virginia. In addition, Piedmont proposes to serve the Duke Power Company (Duke) with interruptible gas at five of Duke's electric generating plants and to provide firm industrial service to the Solvay Process Plant of the Allied Chemical and Dye Corporation at Hopewell, Virginia, and the Celanese Corporation near Rock Hill, South Carolina. The construction and operation of the facilities and the transportation and sale of natural gas for resale, as proposed by Piedmont, are subject to the re-



## FEDERAL POWER COMMISSION

quirements of § 7 of the Natural Gas Act, 15 USCA § 717f.

(2) The record shows that there is a substantial demand and need for natural gas in the several communities proposed to be served by applicant in the Piedmont area and the record further shows that the public convenience and necessity requires that these needs be met. Because of its present agreement for sale of gas to Duke, applicant is not contractually free to offer natural gas on terms and under conditions which are sufficiently favorable to all classes of consumers to justify the issuance of a certificate.

(3) The contract between applicant and Duke is discriminatory in the respects herein stated. Article IV of the contract provides that applicant will supply Duke with all of the natural gas available from its pipe line, as presently proposed or hereafter enlarged, after supplying the requirements of firm customers for purposes not involving the generation of electric power. This will deprive other industries in the area to be served of the opportunity of buying gas on an interruptible basis either direct from applicant or from applicant's utility customers. The utility customers will be disadvantaged by having to purchase gas at a lower load factor and higher unit cost than otherwise would be the case. Article VI of the Duke contract provides for a fixed descending scale of rates without any provision for modification in the event such rates should not in the future adequately compensate Piedmont for the cost of rendering service to Duke. This may place an undue burden upon applicant's utility customers if applicant's project is

to be maintained on a sound financial basis.

(4) Applicant has not shown that it has committed to it a sufficient natural gas supply to sustain its proposed annual deliveries of approximately 62 billion cubic feet for a reasonable period. However, its gas supply may be adequate to meet the presently indicated requirement of consumers in the Carolina area for a reasonable number of years if its deliveries are reduced by an amount equal to the volumes applicant proposes to deliver in the Tidewater area.

(5) Evidence introduced by the interveners representing coal, railroad, and related interests shows that the proposed sale of natural gas to Duke for the purpose of generation of electricity will displace substantial amounts of coal now being used by Duke and may adversely and seriously affect such interveners.

(6) Piedmont proposes to sell the major portion of its gas supply to Duke for power generation, in the following proportions:

### *Per Cent of Total Deliveries*

|                   |     |
|-------------------|-----|
| First Year .....  | 75% |
| Second Year ..... | 70% |
| Third Year .....  | 64% |
| Fourth Year ..... | 59% |
| Fifth Year .....  | 54% |

### *Per Cent of Piedmont Area Deliveries*

|                   |     |
|-------------------|-----|
| First Year .....  | 93% |
| Second Year ..... | 89% |
| Third Year .....  | 84% |
| Fourth Year ..... | 80% |
| Fifth Year .....  | 76% |

This does not appear to be in the public interest.

(7) Applicant has not shown that it is able properly to do the acts and to perform the services proposed.

(8) Applicant has not shown that transportation and sale of natural gas

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## RE PIEDMONT NATURAL GAS CORP.

as proposed by it are required by the public convenience and necessity.

(9) Because of the need for natural gas in the Piedmont area and the showing already made by applicant, this proceeding should be reopened for the purpose of allowing Piedmont to amend its application to serve the Piedmont area and to produce further evidence in support thereof if it so desires.

(10) That portion of Piedmont's application which relates to service to the Tidewater area of Virginia should be denied.

(11) It is appropriate that the Commission render its decision on the application prior to April 1, 1950.

Time does not permit the issuance of an opinion by that date. Therefore, an opinion will be issued subsequently.

The Commission orders:

(A) The proceeding upon the above-entitled application, except that portion which relates to service to the Tidewater area of Virginia, is reopened for the purpose of allowing Piedmont to amend its application to serve the Piedmont area and to produce evidence in support thereof commencing not later than sixty days from the issuance of this order.

(B) The application of Piedmont, to the extent that it relates to service to the Tidewater area of Virginia, is denied.

## OHIO SUPREME COURT

### City of Cincinnati

v.

### Public Utilities Commission et al.

No. 31791

— Ohio St —, 90 NE2d 681

February 15, 1950

**A**PP<sup>EAL</sup> from Commission order setting aside electric rates prescribed by ordinance and substituting higher rates; order affirmed. For Commission decision, see (1948) 75 PUR NS 97.

*Appeal and review, § 48 — Commission order — Rates.*

1. Under § 544, General Code, the sole function of the supreme court on an appeal from a final order of the Public Utilities Commission fixing rates chargeable by a utility for its products or services is to determine whether, under all the facts and circumstances developed in the hearings before the Commission, such order is unlawful or unreasonable, p. 43.

*Expenses, § 109 — Taxes.*

2. The general rule is that validly imposed taxes of all kinds paid by a

## OHIO SUPREME COURT

utility may properly be considered as an operating expense of such utility for rate-making purposes, p. 43.

### *Expenses, § 114 — Excess profits tax.*

3. Excess profits taxes paid by a utility to the Federal government may be considered by the Commission as an operating expense of the utility, particularly where no objection is registered thereto at the hearings before the Commission, p. 43.

### *Expenses, § 89 — Rate-case expenses — Appeal from rate order.*

4. Where a utility appeals to the Public Utilities Commission complaining that the rates established by a city ordinance are unfair and unjust, and the utility is successful in its appeal, reasonable expenses incurred by the utility in the preparation and presentation of its side of the controversy may be considered by the Commission as an operating expense, p. 44.

### *Appeal and review, § 42 — Conclusiveness of Commission findings — Rate-case expenses.*

5. Where a part of rate-case expense must be estimated by the Commission, it may exercise sound judgment based on past experience in so doing, and if the computation made does not transcend reasonable bounds, a reviewing court will not ordinarily disturb the amount arrived at, especially where the impact of such allowance on the rates fixed is trivial, p. 44.

### *Depreciation, § 31 — Annual allowance — Average rate — Life of property.*

6. In determining the annual allowance for depreciation on the property of a utility used in its business, the Commission may properly establish an average rate computed over the entire estimated service life of such property, where there is sufficient evidence upon which such calculation can be made, p. 45.

### *Revenues, § 1 — Findings — Bill analysis — Customer classification.*

7. A bill analysis or customer classification is not essential to a finding as to the utility's revenues, where the Commission has before it other evidence pertaining to the subject upon which an intelligent and accurate conclusion can be reached, p. 45.

### *Return, § 87 — Electric company.*

8. A utility is entitled to a fair return on the value of its property devoted to the business of supplying its products or services to the consumers or users thereof, and the allowance of a return by the Commission to an electric company of approximately 6 per cent will not be disturbed by this court as unreasonable, p. 46.

Headnotes by the COURT.

The present controversy comes to this court upon an appeal by the city of Cincinnati, hereinafter called the city, from a final order of the Public Utilities Commission, hereinafter called the Commission, dated September 2, 1948, 75 PUR NS 97, wherein the rates for electric current, furnished within the territorial limits of the city,

83 PUR NS

prescribed in two ordinances passed by the council of the city, the first in 1944 and the second in 1946, were set aside and other and higher rates were substituted therefor. The utility affected is The Cincinnati Gas & Electric Company, hereinafter referred to as the company.

On October 29, 1944, the first ordi-

## CINCINNATI v. PUBLIC UTILITIES COM.

nance mentioned, covering a period of two years, became effective. Prior to that time, there were in existence within the city certain rates for electric current, established by an ordinance passed in 1941 and accepted by the company.

The second ordinance mentioned, also covering a 2-year period, became effective October 29, 1946.

These two ordinances of 1944 and 1946, respectively, were the same as to rates and such ordinance rates were lower than those in effect under the 1941 ordinance, which expired October 29, 1944.

Being dissatisfied with the rates established by the 1944 and 1946 ordinances, the company filed separate complaints thereto with the Commission, and, in conformity with statutory provisions and requirements, continued to charge the rates in force before the effective dates of such ordinances.

Hearings before the Commission began in December, 1947, and continued intermittently over a period of six months. Much evidence and many exhibits were introduced.

Up until September 2, 1948, the date of the Commission's final order herein, *supra*, the company was collecting rates for electric current as prescribed by the 1941 ordinance, the difference between those rates and the lower 1944 and 1946 ordinance rates being impounded.

Probably because of the practical difficulties involved in adopting a different course, the Commission ordered with the assent of the company, that "the rates and charges actually collected" by the company, being those prescribed by the 1941 ordinance,

should prevail to the date of the Commission's final order, the result being that the company would gain the benefit of the higher rates established under the final order of the Commission for a space of only two months.

One factor which greatly simplified the proceedings before the Commission was the formal stipulation entered into by the city and the company that the valuation of the physical properties of the company for rate-base purposes should be predicated upon the undepreciated book cost of such properties to the company rather than upon the reproduction cost new less depreciation.

APPEARANCES: Henry M. Bruestle, City Solicitor, and Robert J. White, Cincinnati, for appellant; Herbert S. Duffy, Attorney General, and Kenneth B. Johnston, Columbus, for appellee Public Utilities Commission; Peck, Shaffer & Williams and Andrew J. Conroy, Jr., Cincinnati, for appellee Cincinnati Gas & Electric Co.

ZIMMERMAN, J.:

[1] Under § 544, General Code, the sole function of this court is to determine whether, under all the facts and circumstances developed in the hearings before the Commission, the final order entered by the Commission is unlawful or unreasonable.

Although we have considered the 65 separate assignments of error listed by the city in its main brief, we shall confine our discussion to those matters which are of real significance and to which the city attaches prime importance.

[2, 3] First, the city contends that the Commission wrongfully allowed as a legitimate operating expense "excess

## OHIO SUPREME COURT

profits taxes" paid by the company to the Federal government. Such allowance was not contested by the city before the Commission; on the contrary in one of the exhibits introduced by the city, such taxes were conceded, inferentially at least, to be a proper item for inclusion among operating expenses. Because of its attitude with respect to this item before the Commission, the city is hardly in a position now to register any persuasive objection.

Moreover, the general rule is that validly imposed taxes of all kinds may be properly included in the operating expenses of a public utility for rate-making purposes. 43 American Jurisprudence, 667, § 143.

It was the duty of the Commission in the instant case to accord the company a fair and reasonable return based on the undepreciated book cost of its properties. In arriving at such figure all legitimate taxes paid by the company out of its revenues were entitled to consideration in a determination of the percentage of return it should receive on its stipulated investment.

[4, 5] The city complains next there was insufficient evidence to establish rate-case expense and that the Commission was too generous in the allowance made therefor.

In Ohio as in many other jurisdictions it is recognized that where a utility appeals to the Public Utilities Commission of a state, complaining that the rates established by a city ordinance are unfair and unjust, and the utility is successful in its appeal, proper expenses incurred by the utility in the preparation and presentation of its side of the controversy may be in-

cluded by the Commission among operating expenses in computing a fair return to the company. *East Ohio Gas Co. v. Public Utilities Commission* (1938) 133 Ohio St 212, 239, 22 PUR NS 489, 12 NE2d 765, 778; *Cincinnati v. Public Utilities Commission* (1949) 151 Ohio St 353, 375, 80 PUR NS 217, 86 NE2d 10, 22; 43 American Jurisprudence, 672, § 152.

Upon a consideration of the arguments of counsel with respect to this issue as contained in their briefs and as presented upon oral argument, together with an examination of the record, we are satisfied that the Commission's determination as to the sum allowable for rate-case expense cannot be denoted as unreasonable.

The question of rate-case expense has been before the Commission on many occasions and in a variety of circumstances through the years and the experience so gained could properly be utilized by the Commission in gauging this matter. The computation as made is not out of line with amounts fixed and approved in other comparable cases.

In a situation where a part of rate-case expense must be estimated and the computation as made does not transcend reasonable bounds, one way or the other, a reviewing court will not ordinarily disturb the amount actually arrived at. *Wabash Valley Electric Co. v. Young*, 287 US 488, 77 L ed 447, PUR1933A 433, 53 S Ct 234.

Assuming that the Commission did err on the side of liberality in its allowance for rate-case expense, the allowance actually made amounts to about only one-tenth of one per cent and its impact on the rates finally fixed



## CINCINNATI v. PUBLIC UTILITIES COM.

is so trivial that there would be little justification for returning the case to the Commission for a reconsideration and redetermination of this element.

[6] Another contention of the city is that the annual allowance for depreciation as determined by the Commission was too great and was based upon insufficient evidence.

Generally speaking, depreciation for which allowance should be made in fixing the rate base for a public utility is the loss, not restored by current maintenance, which is due to all the factors causing the ultimate retirement of the property, and embraces wear and tear, decay, inadequacy, and obsolescence. *Lindheimer v. Illinois Bell Teleph. Co.* (1934) 292 US 151, 78 L ed 1182, 3 PUR NS 337, 54 S Ct 658.

An approved method for determining the annual allowance for depreciation is to establish an average rate computed over the entire estimated service life of the property concerned; and this was the course followed by the Commission.

An examination of the record discloses that considerable evidence of a conflicting nature was submitted to the Commission on this subject. Based upon certain test periods covering a given number of years, the witnesses for the city maintained that such allowance should be a flat sum of \$1,000,000 per year, equaling about one per cent as applied to the undepreciated book cost of the company's properties.

The company claimed a higher percentage and presented as its chief witness one of its officers whose testimony was based largely upon an extensive survey and report prepared by a reputable engineering firm and with

which survey the witness was thoroughly familiar.

When the city raised the objection that this evidence was hearsay, an offer was made to produce for cross-examination the compiler of the report, but the city did not avail itself of the opportunity.

The tables of calculations made by the firm of engineers referred to were introduced in evidence as an exhibit.

In a contest before the Commission pertaining to rates which may be charged by a utility for its products or services, the duty devolves upon the Commission to consider all the evidence and to select and apply that which in its opinion is best calculated to contribute to a fair and just outcome.

It has long been the rule that this court will not substitute its judgment for that of the Commission, where the findings of the Commission are supported by substantial evidence.

In our opinion, there was evidence of a reliable and substantial character to sustain the findings of the Commission as to the annual allowance for depreciation and we discover no good cause for reversing its order in this respect.

One of the errors argued less strenuously by the city is that the Commission went astray on the amount of the company's property allocated to the city. Suffice it to remark that the Commission was confronted with two methods for determining such allocation and we cannot declare, upon the record, that the one chosen was improper or unwarranted.

[7] Relying upon language found in the opinion in the case of *Cincinnati v. Public Utilities Commission*, *supra*,



## OHIO SUPREME COURT

the city insists that the Commission's findings as to the company's revenues were erroneous because of the absence of a bill analysis or customer classification.

In our view of the matter, such information would have been proper as an aid in estimating future revenues, but it was not essential to an effective determination of the question. The Commission had before it a breakdown of the various classifications showing anticipated revenues; it also had before it tables showing the rates proposed. Other evidence was likewise before the Commission, relating to the subject and from which an intelligent analysis and appraisal could be made. That the Commission weighed the material available to it and came to an independent conclusion is indicated by the fact that the final rates fixed by it were less than those proposed by the company.

It stands to reason that rates for electric current which would be adequate in the early 1940's would not be so at a later time in the same decade. As a matter of common knowledge, wages and salaries generally increased very materially during these years as did the costs of materials, supplies, and commodities of all kinds. And although the use of electric current became greater through these years, so did the cost of producing and distributing that current.

All these factors were correctly taken into account by the Commission, upon the evidence adduced, in establishing a fair and just rate for the 4-year period involved.

[8] Finally, the city urges that the rate of return as fixed by the Commission is excessive.

It is axiomatic that a public utility is entitled to a fair return on the value of its property devoted to the business of supplying its products or services to the consumers or users thereof.

Based upon the proposition that public utilities should be entitled to a rate of return approximating the legal rate of interest, or the investment and interest rates generally prevailing in the locality, a rate of 6 per cent has often been approved.

In the present case the Commission established a rate of return a trifle below 6 per cent. We cannot say that such rate is unreasonable. See *Portsmouth v. Public Utilities Commission*, 108 Ohio St 272, 276, PUR1923E 834, 140 NE 604, 605.

This court is frank to confess that it has not performed the arduous task of reading and examining the entire record, which consists of many pages of testimony and hundreds of exhibits. However, we have examined those parts pertaining directly to the complaints registered by the city and from such examination it is our studied opinion that the Commission performed its work in a competent and painstaking manner and reached a substantially correct result, giving due heed to the rights and interests of all those affected.

We cannot conscientiously hold that the final order of the Commission is unlawful or unreasonable and it therefore follows that such order is affirmed.

Order affirmed.

Weygandt, CJ., and Matthias, Hart, Turner, and Taft, JJ., concur.

Stewart, J., not participating.

## Re Central Vermont Public Service Corporation

No. 2457  
— Vt —, 71 A2d 576  
February 7, 1950

**A** PPEAL from order denying in part application for authority to increase electric rates; order affirmed. For Commission decision see (1949) 82 PUR NS 601.

*Rates, § 120 — Formula not required.*

1. The Commission has broad discretion in fixing rates and is not bound to the service of any single formula or combination of formulas, p. 49.

*Rates, § 648 — Evidence — Test period.*

2. The Commission, in fixing rates for an electric company, properly used a test period based on the company's most recent actual experience adjusted for all known changes affecting operating costs and revenues in the immediate future, p. 49.

*Valuation, § 224 — Rate base determination — Construction work in progress.*

3. Plant under construction should be excluded from an electric company's rate base where interest charged during construction has been capitalized and included in the ultimate plant account, the rate base contains allowances for capitalization of materials used in construction, and no adjustment has been made for the revenues which will be produced when the plant under construction goes into service and for existing plant which is to be replaced by the new construction, p. 51.

*Return, § 26 — Cost of capital — Capitalized interest during construction.*

4. Interest during construction which has been capitalized should not be deducted from total interest payments made by an electric company during a test year in figuring the cost of capital, since such interest is in the nature of interest received by the company rather than interest paid by it, p. 51.

*Valuation, § 225 — Rate base determination — Future additions to plant.*

5. Future additions to electric plant to be begun, completed, and put in service after the end of the test year used for fixing an electric company's rate base should be excluded from the rate base, since the inclusion of non-existent plant as part of a rate base predicated upon most recent past experience would destroy the validity of the test by making the company's earning power appear lower than it actually was, p. 54.

*Return, § 24 — Reasonableness — Investor and consumer interests.*

6. The fixing of just and reasonable rates involves the balancing of the investor and consumer interests, p. 54.

## VERMONT SUPREME COURT

*Return, § 19 — Guaranty of net revenues.*

7. Public utility regulation does not insure that the business shall produce net revenues, p. 54.

*Appeal and review, § 48 — Commission order — Reasonable return.*

8. The court is reluctant to interfere with the Commission's judgment in determining a proper rate of return for an electric company where it is manifest that the Commission made a thoughtful and comprehensive effort to arrive at a proper result, p. 54.

APPEARANCES: Lawrence & O'Brien, Rutland, for petitioner; Clifton G. Parker, Attorney General, for the state; Robert T. Stafford, State's Attorney, Rutland county, Rutland, John A. Calhoun, State's Attorney, Addison county, Middlebury, Louis G. Whitcomb, Springfield, and Paul R. Teetor, Middlebury, Special Counsel for the state.

Before Sherburne, CJ., and Jeffords, Cleary, Adams, and Blackmer, JJ.

BLACKMER, J.: The Central Vermont Public Service Corporation, petitioner, is a public utility corporation organized under the laws of this state, and engaged in the generation, transmission, and distribution of electricity throughout a substantial area of Vermont, and to a limited extent in the states of New Hampshire and New York. On April 11, 1949, it brought its petition to the Vermont Public Service Commission requesting authority to revise its rate schedules by way of increase. Formal complaints of more than five persons adversely affected by the proposed rates having been received, it became mandatory for the Commission to investigate the justness and reasonableness of the rates proposed.

Public hearings were held, at which and thereafter the state of Vermont was represented by special counsel.

Requests for findings were filed by the petitioner and the state; findings of fact denominated a "Report" were filed by the Commission; exceptions to the findings and failures to find as requested were taken by the petitioner; a judgment order and supplemental order were entered granting a part, but not all, of the increased desired; exceptions to the judgment were duly taken by the petitioner, a bill of exceptions filed, and the cause passed to this court.

The original cost of the petitioner's utility plant in service was established by an order of the Federal Power Commission dated Jan. 5, 1943, Docket No. IT-5807, 3 FPC 892. This cost was accepted in its considerations by the Vermont Commission, and such acceptance is not questioned by the petitioner.

In computing an appropriate rate base, the Commission employed a test year covering the twelve months' period from May 1, 1948 to April 30, 1949. This interval covered the operating experience of the petitioner to the latest date for which data was then available. The rate base computed was the average net investment in utility plant for the test period selected. The Commission next made certain adjustments as to revenues and expenses to account for (1) a previous rate increase which became effective

## RE CENTRAL VERMONT PUBLIC SERVICE CORP.

during the period, (2) a wage increase made during the same period, and (3) certain other adjustments to reflect changes which the Commission knew with reasonable certainty would be accomplished in the immediate future, including a reduction made in 1948 in the cost of electric current purchased from another electric utility.

The petitioner made calculations for the twelve months ending April 30, 1950, and insists that these calculations should control rather than the test year adopted by the Commission. This is the first matter for consideration.

[1, 2] An administrative agency performing the delegated legislative function of rate making has a broad discretion. Mr. Justice Cardozo, speaking for the United States Supreme Court, said of it: "Regulatory Commissions have been invested with broad powers within the sphere of duty assigned to them by law. Even in quasi-judicial proceedings their informed and expert judgment exacts and receives a proper deference from courts when it has been reached with due submission to constitutional restraints. . . . Indeed, much that they do within the realm of administrative discretion is exempt from supervision if those restraints have been obeyed." *Ohio Bell Teleph. Co. v. Ohio Pub. Utilities Commission* (1937) 301 US 292, 304, 81 L ed 1093, 1101, 18 PUR NS 305, 313, 57 S Ct 724, 730. Such Commissions are not bound to the service of any single formula or combination of formulas. *Federal Power Commission v. Natural Gas Pipeline Co.* (1942) 315 US 575, 586, 86 L ed 1037, 1049, 1050, 42 PUR NS 129, 138, 62 S Ct 736, 743.

In that case Mr. Chief Justice Stone said for the court: "Agencies to whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances. Once a fair hearing has been given, proper findings made and other statutory requirements satisfied, the courts cannot intervene in the absence of a clear showing that the limits of due process have been overstepped. If the Commission's order, as applied to the facts before it and viewed in its entirety, produces no arbitrary result, our inquiry is at an end."

In selecting as its test year the most recent twelve months' period for which data based on experience was available, the Commission reported: "It is our judgment that the propriety of the petitioner's proposed rate in relation to the present time and the immediate future can most reasonably be ascertained from a study of its operations during the most recent time for which data is available, with proper adjustments to show what results such operations would produce in the light of presently known factors relating to operating cost and revenues." 82 PUR NS 601, 605.

When it made this selection, the Commission acted in conformity with a view accepted by both courts and Commissions in modern cases. *Panhandle Eastern Pipe Line Co. v. Federal Power Commission* (1945) 324 US 635, 89 L ed 1241, 58 PUR NS 100, 65 S Ct 821; *Detroit v. Panhandle Eastern Pipe Line Co.* (1942) 3 FPC 273, 45 PUR NS 203; *Re Salt Lake City Lines* (Utah 1949) 78 PUR NS 1; *Public Service Commis-*

## VERMONT SUPREME COURT

sion v. Mountain Fuel Supply Co. (Utah 1947) 73 PUR NS 428; Re Cities Service Gas Co. (1943) 3 FPC 459, 50 PUR NS 65.

The following comments by Commissions justify quotation "But future estimates, no matter how reasonable, are not so reliable as the actual experience of the pattern year. It follows that we should base our determination of proper earnings on actual prevailing conditions, not forecasts." Public Service Commission v. Mountain Fuel Supply Co. *supra*, 73 PUR NS at p. 433. "It seems clear to us that the immediate future can best be forecast on the basis of experience in the immediate past, particularly where the uncertainties in the economic situation are so numerous as at present." Public Utility Commission v. Equitable Gas Co., (Pa 1945) 61 PUR NS 113, 118. "Economic trends and cycles are too uncertain to permit an intelligent forecast on the basis of the evidence presented. . . . The Commission, therefore finds that for the purpose of this hearing the actual operating revenues of the company for the test period be used (with certain adjustments)." Re Salt Lake City Lines, *supra*, 78 PUR NS at p. 9.

It follows that the adoption of its test year method by the Commission was proper. There is no question, on the other hand, but that there is authority supporting in general the view taken by the petitioner. It is not to be assumed by those interested, nor by the legal profession, that the sanction of the method employed in this case commits the Vermont Public Service Commission to the same method in all future cases. Indeed, a rigid application thereof in all cases without con-

sidering "the pragmatic adjustments which may be called for by the particular circumstances" above referred to might, and probably would, eventually result in error.

What has been said disposes of much of the petitioner's briefing of this point, because where an administrative agency has authority to choose the criteria determinative of an issue of fact, it may reject evidence which has no materiality in view of the criteria adopted. Panhandle Eastern Pipe Line Co. v. Federal Power Commission (1944) 54 PUR NS 26, 143 F2d 488. Some matters urged by petitioner remain for special mention.

The petitioner quotes from Re New England Teleph. & Teleg. Co. (1949) 115 Vt 494, 499, 79 PUR NS 508, 66 A2d 135, 139: "Moreover, it is clear that a year-end figure for 1947 could not properly be considered as a rate base for average net investment in 1948, or thereafter," and translates it to mean "It is obviously wrong to ignore computations for the year ahead and supersede them by a computation for a year which has passed." An examination of the quoted statement in its context shows that the petitioner's interpretation is unwarranted. In that part of the opinion in which this sentence appears we had shown the necessity in a rate case for the determination of a proper rate base. We had also shown that the Commission had made no findings on this essential matter. We concluded this discussion with the above-quoted sentence, an obiter statement. We were not therein stating any specific rule to be followed in determining a rate base, nor were we, as claimed by the petitioner, indicating that figures for the year

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## RE CENTRAL VERMONT PUBLIC SERVICE CORP.

ahead should prevail over those for the last preceding year. At the most, as a general statement, we meant that a year end figure, standing alone and without adjustments, cannot properly be used as a rate base, the amount of which is predicated on average net investment for the succeeding year, for a company whose rate base is constantly changing. The quoted statement is in no way inconsistent with the course adopted by the Commission, viz.: The use of a test period based on the petitioner's most recent actual experience, adjusted for all known changes affecting operating costs and revenues in the immediate future.

There was introduced in evidence petitioner's exhibit 11-A, which set forth the estimated investment in utility plant and working capital, and a computation by petitioner of the cost of its capital and what it considered a necessary rate of return, all for the year ending April 30, 1950, and which it claims is correct. In the first place, these figures do not coincide with the theory on which the Commission proceeded, namely, a test period ending April 30, 1949, and are to that extent irrelevant. In the second place, much of the material is supported by opinion evidence, as, looking to the future, it must necessarily be. Of it the Commission said "... we cannot accept in full the financial requirements as defined by the petitioner." (*Supra*, 82 PUR NS at p. 613. We find no fault in the Commission's statement. The petitioner states that "it is obvious that they (the figures for the year ahead) should not be cast aside as of no weight whatsoever, as the Commission has done." We do not agree that the Commission did so, and point out that

it merely failed to accept the petitioner's claims "in full." In fact, the record satisfies us that the Commission gave full and fair attention to all matters presented by the petitioner. Moreover, in its presentation of this part of the case, and elsewhere, the petitioner declines to recognize any approach to the problem of rate fixing, save its own, as sound. That view the Commission did not share, nor do we, for the reasons set forth above.

The state briefed a proposition to the effect that "The evidence in this case itself supports the Commission's preference for experience over speculation." The word "speculation" is not a particularly apt choice, since the worst that can be said of petitioner's evidence looking into the future is that it is opinion based on experience and business judgment. Be that as it may, this part of the state's brief and argument does not impress us, and we do not base our decision thereon. The petitioner has gone to some length in its reply brief to rebut these contentions. Since the claim of the state does not affect the result, it is needless to linger over the reply thereto.

[3, 4] In arriving at the average net investment in utility plant for the test period, selected, the Commission excluded electric plant under construction. The petitioner insists that this item should be included, and this difference of opinion gives rise to the second question for decision.

These facts are found. The plant under construction, in all probability, will be in service during the period in which the rate established shall be in effect. The petitioner charged interest during the construction in the amount of \$8,996.04 during the test year.



## VERMONT SUPREME COURT

This interest is capitalized and included in the ultimate plant account. Therefore a double return would result if plant under construction were included in the rate base. Allowance of interest charged to construction fully and adequately compensates the petitioner for the use of capital invested in unfinished construction. The rate base contains allowances for capitalization of materials used in construction and inventories on hand before they were used in construction. In the employment of this test-year basis no adjustment is made for the revenues which will be produced when the plant under construction goes into service. The plant under construction will have substantial revenue-producing ability; nearly 50 per cent of such construction at the end of the test period (Apr. 30, 1949) relates to rural line extensions. It includes construction designed to replace existing plant not yet retired. Inclusion of plant under construction before the plant to be replaced is retired would obviously result in a double return.

In its brief the petitioner quite frankly admits that it charges interest on plant under construction and capitalizes such interest when the new construction is added to its plant account. The Commission has so found and that a double return would result from its inclusion. This is conclusive that plant under construction was correctly excluded from the rate base on the authority of *Re New England Teleph. & Teleg. Co. supra*. There it was said, 115 Vt at pp. 504, 505, 79 PUR NS at p. 518: "But such property (under construction) should not be so included (in the rate base) if

the inclusion would result in a double return to the company because interest upon the unfinished construction has been capitalized by the company."

The petitioner seeks to avoid the effect of the Commission's finding and ruling by arguing that its computation of cost of capital for the year ending April 30, 1950, deducted the item of interest charged to construction obviating the possibility of its receiving a double return. The argument has no force because it is addressed to a method of procedure not adopted by the Commission. It is further claimed, to the same end, that the petitioner deducted interest charged to construction "in its accounts and reports to the Commission," reference being made to its Exhibit No. 4. This exhibit shows, under "Income Deductions" an item "Interest charged to construction-credit" in the sum of \$7,790. This is entirely consistent with petitioner's policy of charging and capitalizing interest on plant under construction. The entry to which our attention is directed is not a deduction from any capital account. It is an income item only, which reduces the amount of interest charged against income by the petitioner, thereby enlarging the amount of income available to the stockholders. Instead of contradicting the position of the Commission, it supports it.

In the employment of its test-year basis, the Commission made no adjustment for the revenues which would be produced from the plant under construction when completed. Once it had been decided to eliminate plant under construction from the rate base, the exclusion of revenues to be received therefrom automatically fol-

## RE CENTRAL VERMONT PUBLIC SERVICE CORP.

lowed. Only so could it be determined whether the petitioner's earnings were adequate to provide a fair return on the property producing those earnings. Both property under construction and the estimated revenues therefrom must be included in the rate base, or neither. Re Kings County Lighting Co. (NY 1947) 70 PUR NS 374. Here the Commission included neither, which was proper. Re Interstate Nat. Gas Co. (1943) 3 FPC 416, 48 PUR NS 267.

The Commission stated that: "The inclusion of property under construction before the plant which it is designed to replace has actually been retired would obviously result in a double return." (*Supra*, 82 PUR NS at p. 606.) This is criticized on the ground that when replaced plant is retired, the petitioner's plant and depreciation reserves are reduced in like amount so that the amount of net plant is not changed by the retirement procedure. On the Commission's test year method, the answer is: While replacements are under construction the petitioner is compensated for the use of its capital by interest charged to construction. At the same time it is being compensated by a return on the property to be replaced. If, in addition, the property under construction were added to the rate base, thereby permitting it to produce yet another return over and above the two compensations already noted, the same property would produce two returns, or a double return, as the Commission aptly stated.

Another reason given by the Commission for the exclusion from the rate base of plant under construction was that "in the computation of the rate

base, allowance is afforded the petitioner for capitalization of materials used in construction and inventories on hand before they were used in the process of construction." (*Ibid.*) The objection thereto confuses the construction inventories mentioned with those materials and supplies which form a part of the working capital of the petitioner. See Public Service Commission v. St. Louis County Gas Co. (Mo 1943) 49 PUR NS 65. The Commission's position is supported by Ohio Bell Teleph. Co. v. Public Utilities Commission (1936) 131 Ohio St 539, 15 PUR NS 443, 3 NE2d 475, 493. No authority to the contrary is pointed out. The Commission's position is approved.

Petitioner comments in passing, so to speak, that in figuring the cost of capital, the Commission did not deduct interest during construction from total interest payments made by petitioner during the test year. It should not have been deducted, for such interest, later capitalized, is in the nature of interest received by the petitioner, not interest paid by it. Had interest during construction been deducted from total interest paid it would have been a detriment to the petitioner. The greater the interest paid, the greater the cost of capital.

It is said by the petitioner that there is no evidence to show the amount of interest charged to construction particularly applicable to investment in electric plant under construction either at December 31, 1948, or at April 30, 1949, and no evidence to show at what rate such interest was charged and capitalized. The petitioner reasons therefrom that there is no basis for the Commission's conclusion that "Allow-

## VERMONT SUPREME COURT

ance of interest charged to construction fully and adequately compensates the petitioner for the use of capital invested in unfinished construction." (Ibid.) But this does not follow. The evidence discloses \$7,790 interest charged to construction in the calendar year 1948 and \$8,996 in the year ending April 30, 1949. This is, on its face, reasonable, and no effort was made by the petitioner to demonstrate that the rate it charged itself was too low. We agree with the state that the Commission was justified in drawing the inference that petitioner's management would not undercharge itself in this particular.

"The issue here presented (i. e., inclusion or exclusion of property under construction) is essentially one of fact for the Commission's determination." Re New England Teleph. & Teleg. Co. (1949) 115 Vt 494, 505, 79 PUR NS 508, 518, 66 A2d 135, 142. The Commission has found for exclusion, and no error appears.

[5] Third is petitioner's contention that extensions and betterments (future additions to plant) to be begun, completed and put in service during the year ending April 30, 1950, should be included in the rate base. If the Commission had adopted a test-year period coinciding with that noted, and if the estimated revenues to be produced from such future additions had also been included as the balancing factor, there would be merit to the contention. But with the selection of a test year ending April 30, 1949, these items were not germane. The inclusion of nonexistent plant as part of a rate base predicated upon most recent past experience would clearly destroy the validity of the test by mak-

83 PUR NS

ing the petitioner's earning power appear lower than it actually was. Nor is the exclusion unfair to the petitioner. Additions to plant are primarily designed to meet increased demand. The increased revenues from this future business should compensate the petitioner for such future additions to plant. Re Interstate Nat. Gas Co. *supra*.

Several cases from other Commissions are cited as authority for inclusion of future additions to plant. In so far as they are applicable to the situation in hand, we decline to endorse them. We say that when such future plant goes into service, the petitioner will receive a fair return thereon under the rates established by the method which the Commission has employed, and through the media of increased revenue and decreased costs of operation. Re Interstate Nat. Gas Co. *supra*.

[6-8] The rate of return allowed by the Commission was 5.65 per cent on a rate base of \$16,898,062. This result is challenged by many exceptions, which collectively pose the question of whether such rate is just and reasonable. This presents the fourth matter for disposition.

The rule governing a proper rate of return for a public utility has been announced recently by this court. The fixing of just and reasonable rates involves a balancing of the investor and consumer interests. From the standpoint of the investor it is required that there be enough revenue for capital costs of the business, including service on the debt and dividends on the stock. The return to the equity owner should be commensurate with returns on investments in other enter-

## RE CENTRAL VERMONT PUBLIC SERVICE CORP.

risks having corresponding risks. The return should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. From the investor point of view a reasonable return should also provide for something to be passed to the surplus account. However, a fair return to investors is not necessarily fair to consumers. Regulation does not insure that the business shall produce net revenues. *Re New England Teleph. & Teleg. Co. supra*, 115 Vt at pp. 512, 513, 79 PUR NS at p. 525.

The Commission has found that the return designated is just and reasonable. It states that it has sought to achieve an equitable balance of consumer and investor interests. It was its objective "to provide that rate of return which is adjusted to the needs of the utility consistent with the public interest." (82 PUR NS at p. 613.) It has specifically found that the petitioner desires too much in these words: "This standard (above quoted) dictates that we cannot accept in full the financial requirements as defined by the petitioner." (*ibid.*) These following facts further appear from the report. A revenue in excess of the actual cost of capital is required to maintain the financial integrity of the petitioner, and to place it in a position to successfully compete in the money markets for additional capital. A properly balanced capital structure is in the public interest. A 5.65 per cent rate of return will afford the petitioner ample ability to attract new capital, and will enable it to successfully compete for such new capital either in the form of debt or equity securities as may be most expedient. The peti-

tioner has maintained a relatively low earnings price ratio on its common stock. The financial structure of the petitioner has been considered. The relationship of its long-term debt to its total capitalization compares favorably with Class A and Class B operating electric utilities. Financial and general economic conditions of the present and the immediately predictable future have been considered, and an effort made to indulge in proper forecasts of probable future values. Petitioner's labor costs are stabilized. Cost of materials has been relatively stable or descending. Heavy postwar II plant expansion has occurred in the construction of new distribution facilities. Such new plant has not reached its maximum of revenue producing ability; the petitioner's president anticipates it will continue to grow very rapidly. Its growth depends in some measure on the reasonableness and adequacy of the rates permitted to prevail. The return specified is commensurate with returns on investments in other enterprises having corresponding risks, consistent with the petitioner's financial integrity, and affording it the ability to maintain its credit and attract new capital.

It is manifest that the Commission made a thoughtful and comprehensive effort to arrive at a proper result. We should be, and are, reluctant to interfere with its expert and informed judgment. *Ohio Bell Teleph. Co. v. Ohio Pub. Utilities Commission* (1937) 301 US 292, 81 L ed 1093, 1101, 18 PUR NS 305, 313, 57 S Ct 724.

The principal criticism made by the petitioner is that the rate allowed is not

## VERMONT SUPREME COURT

sufficient to support and attract common stock capital. It lays great stress on a claim that it must be able to maintain the present 68 cents per year dividend on its common stock from 70 per cent of its net earnings after taxes, retaining 30 per cent for transfer to surplus. It says that the rate established by the Commission is inadequate, in that it will require 80 per cent of its net earnings to support the dividend currently paid.

Of course this element is an important one in fixing the rate of return. However, it is but one of many components for consideration by and considered by the Commission, as above noted, and it is one in which the interest of the petitioner is greater than that of the public as consumer.

There is evidence in the record supporting the finding of the Commission, with particular reference to the objection now being considered. We summarize the greater part of it herewith. The average pay-out of twenty representative utilities is 78.1 per cent. Pay-out varies from 60 per cent to 90 per cent and more, although it usually does not go for any extended period over 80 per cent. The petitioner's president testified that the figure of 70 per cent striven for was a "judgment figure" on his part. The petitioner has maintained a relatively low earnings price ratio on its common stock, and this in spite of the adverse market circumstances introduced by the impact of a flood disaster upon it. After payment of the current dividend there will be \$102,180, available, for surplus. The earnings of the company are growing and expected to so continue. After interest and dividends on preferred stock the return on

the common will be 8.07 per cent. The earnings-price ratio of typical electric operating utilities was 7.7 per cent in 1948; the average for petitioner for the period January, 1946, to June, 1949, was 7.8 per cent. A common stock dividend of 68 cents represents a yield of 6.4 per cent on petitioner's combined capital stock and surplus, against a yield of 5.9 per cent for 20 typical electric operating utilities. If the petitioner sold common stock at \$8.65 per share (which it says it desires to do) the earnings-offering price ratio would be 9.7 per cent on the Commission's rate. In 1948 the average earnings-offering price ratio for 21 offerings of common stock of utilities in quantity was 10 per cent.

It is uncontrovertible that there is much evidence and argument which would sanction a different result. It is needless to detail it. The Commission was under no obligation to accept it, and the Commission did not. The evidence supports the result reached in the particular in which it is challenged. *Sabre v. Rutland R. Co.* (1913) 86 Vt 347, 386, 85 Atl 693, Ann Cas 1915C, 1269. The pertinent exceptions concerning rate of return allowed are dismissed.

In the same connection, the petitioner makes a mention that in calculating the cost of capital for its test year the Commission omitted interest on \$400,000 of temporary borrowings. We are not shown how this came about, if it did, nor are we directed to any evidence tending to show the amount of interest claimed to have been omitted. The state assures us that it has made due search, and cannot find any evidence introduced by the petitioner of the amount of in-



## RE CENTRAL VERMONT PUBLIC SERVICE CORP.

interest on temporary borrowings. In this circumstance we are under no duty to make an independent search; we therefore accept the state's word for it. Error does not appear.

Fifth, and last, are exceptions taken by the petitioner to the following findings in the report under the heading "Flood Losses."

"As a result of the excessive demands on the capital structure of the petitioner and the excessive and burdensome charges to surplus account, the capital structure of the petitioner was substantially impaired.

"We regard these facts as proper matters for our consideration in determining the fair rate of return." (82 PUR NS at p. 612.)

Petitioner's counsel stated in argument that this matter is of relatively minor importance, and in that statement we concur.

It cannot be seriously questioned that the findings in the first quoted paragraph are correct. The petitioner's annual report for the year ended December 31, 1948 shows charges to "Flood Costs and Contingencies" in the sum of \$1,705,066.66. Against this was credited \$624,000 estimated tax reductions, leaving a balance of \$1,081,066.66. The common stock was reduced by 10 per cent, and the amount of \$419,707.60 arising therefrom was transferred to capital surplus. The \$1,081,066.66 was charged to earned surplus, creating an earned surplus deficit of \$236,947.37, which in turn was eliminated by a charge to capital surplus. The expense of capital stock retirement, \$4,979.61 and a preferred stock dividend of \$78,361.92 were also charged to capital surplus. The petitioner's own figures

fully warrant the Commission's finding. Nor is the finding vitiated because after the flood the petitioner sold 326,700 shares of stock at \$8.25 per share for a total of \$2,695,275 by way of recoupment of its capital position. In fact, the flood necessitated what the petitioner itself refers to as a "quasi-reorganization" of its corporate capital structure.

The petitioner says that the facts found should not have been considered at all, and fears that such consideration resulted in a reduced return concealed behind an equivocal general statement. The consideration given is shown by the Commission's statement in connection with the ultimate finding on rate of return: "the petitioner has maintained a relatively low earnings-price ratio on its common stock in spite of the adverse market circumstances introduced by the impact of the flood disaster." (82 PUR NS at p. 614.) Surely this use was legitimate, and no other use appears. The petitioner points out no way in which it has been improperly affected by the consideration which it supposes. The result reached, the return fixed, is consistent with a limitation of use to that quoted. The Commission patently was aware that it "was required to report fully upon all the substantial issues raised by the material evidence in the case." *Re New England Teleph. & Teleg. Co. supra*, 115 Vt at p. 501, 79 PUR NS at p. 515, and it discharged that requirement. It standing thus, we will not conjecture that the Commission concealed anything behind anything, particularly in the face of the presumption that it did its duty.

In its discussion of the subject mat-



## VERMONT SUPREME COURT

ter just finished with, the petitioner stresses the magnitude of the loss occasioned its stockholders by reason of flood damage, and we, too, are impressed with the seriousness of their deprivation. Although it does not affect the decision in the instant case, we take the occasion offered by the petitioner's argument to remark, as a guidepost for the future, that the risk of economic catastrophe rests on the owners of a regulated as well as an unregulated business, and that the public, as consumers, cannot reasonably be expected to reimburse the stockholders of a regulated enterprise for losses occasioned thereby. Such losses do not fall within the most satisfactory definition of depreciation for which allowance is to be made in fixing the rate base for a public utility, namely: The loss, not restored by current maintenance, which is due to all the factors causing the ultimate retirement of the property, embracing wear and tear, decay, inadequacy, and obsolescence. *Lindheimer v. Illinois Bell Teleph. Co.* (1934) 292 US 151, 78 L ed 1182, 3 PUR NS 337, 54 S Ct 658; 43 Am Jur, Public Utilities and Services, § 145, p. 669.

In this, as in every rate case, there is left a reasonable margin of fluctuation and uncertainty. *Dayton Power & Light Co. v. Ohio Pub. Utilities Commission* (1934) 292 US 290, 310, 78 L ed 1267, 1281, 3 PUR NS 279, 54 S Ct 647. But over a period of years fluctuations tend to offset and

equalize each other. Neither management nor regulatory Commissions possess the foresight to fix a rate structure which will yield with precision and exactness a given rate of return for any future period of time. *Re Southern Bell Teleph. & Teleg. Co.* (Ky 1948) 76 PUR NS 33. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market, and business conditions generally. *Bluefield Water Works & Improv. Co. v. West Virginia Pub. Service Commission*, 262 US 679, 67 L ed 1176, 1183, PUR1923D 11, 43 S Ct 675. This is not an order for all time. If in the light of experience the rates turn out to be inadequate, the doors of the Commission are open for increased allowances. *Va Stats 9375-9376*, Rev 1947; *Federal Power Commission v. Hope Nat. Gas Co.* (1944) 320 US 591, 615, 88 L ed 333, 352, 51 PUR NS 193, 64 S Ct 281. Conversely, if the rates prove overly generous, a remedy is provided by *Va Stats 9365-9368*, Rev 1947.

Each and every question briefed has been deliberated and decided. The Commission's decision is deemed sound in law.

The order of the Public Service Commission dated August 5, 1949, 82 PUR NS 601, and its supplemental order dated September 2, 1949, are affirmed. To be certified to the Public Service Commission.

Meerow Press, Incorporated et al.

v.

Consolidated Edison Company of  
New York, Incorporated

— Misc —, 95 NYS2d 55  
January 9, 1950

**S**UIT to require electric company to continue direct current service; motion to prohibit company from terminating such service pending trial denied.

*Service, § 321 — Electricity — Direct or alternating.*

1. The provision in Transportations Corporation Law, § 12, requiring electric utilities to supply electricity for lighting buildings does not prescribe any particular type or characteristics of electricity which must be supplied and cannot be interpreted to require a company to furnish direct current instead of alternating current, p. 60.

*Service, § 161 — Compliance with regulations — Type of electric service.*

2. An electric company should not be required by injunction to continue direct current service to premises to which such service has been supplied under tariffs and regulations providing for termination of such service when this would violate a determination by the Commission, and its regulations and policies, establishing a uniform distributing system based on alternating current, p. 60.

**APPEARANCES:** Benedict Ginsberg, New York city, for plaintiffs; Whitman, Ransom, Coulson & Goetz, New York city (Jacob H. Goetz and Arthur L. Webber, New York city, of counsel), for defendant.

**HECHT, J.:** Plaintiffs are: 1. Owners and landlords of premises 310-326 East 23rd street, 301-311 East 22nd street, and 382-390 Second avenue, borough of Manhattan, city of New York; 2. Certain tenants of the aforesaid buildings. They have instituted

suit to obtain a judgment declaring that they are entitled, under the provisions of § 12 of the Transportation Corporations Law, to receive direct current electric service from defendant. They presently move to enjoin defendant from terminating such service pending the trial of the action.

Plaintiff tenants have not at any time been customers of defendant. They are supplied with electric service by the plaintiff-landlords, who alone are customers of defendant, and who

## NEW YORK SUPREME COURT

have their own private generating plant. It is not denied that the machinery used by the tenants requires direct current.

All of the terms, conditions, and provisions which govern the supply of electric service by defendant to the plaintiff landlords are set forth, in accordance with the provisions of § 66 of the Public Service Law and the orders and regulations prescribed by the Public Service Commission pursuant thereto, in the defendant's filed and published tariffs, which are commonly referred to as the defendant's rate schedule. Defendant presently supplies to the plaintiff landlords, in accordance with the provisions of the rate schedule, certain quantities of alternating current, direct current on a firm or permanent basis, and direct current on a temporary basis.

The direct current service which the plaintiffs seek to compel defendant to continue to supply, has been supplied only under the terms, provisions, and limitations of Rider "F," which the Public Service Commission approximately two years ago, after investigation and hearing, determined and required the defendant to terminate on January 1, 1950. Moreover, Rider "F" contains the express provision: "Upon the discontinuance of direct current service made available hereunder, the company shall be under no obligation further to supply to the premises any of the direct current service made available hereunder, and it will withdraw such direct current service, without any responsibility for any changes in customer equipment . . . ."

It is not disputed that the plaintiff  
83 PUR NS

landlords received repeated notices and warnings from the defendant of the proposed termination of service, and the affidavit of one of the landlords states: "The tenants were notified by the owners' representative of the intention of the defendant-utility to discontinue the direct current service which is redistributed to the respective tenants, and advised said tenants of the owners' willingness to substitute alternating current service for the direct current service."

[1] Section 12 of the Transportation Corporations Law, upon which plaintiffs rely, provides: "Gas and electricity must be supplied on application. Upon written application of the owner or occupant of any building within 100 feet of . . . line of an electric corporation . . . appropriate to the service requested, . . . it shall supply . . . electricity as may be required for lighting such building. . . ."

The foregoing provision does not prescribe any particular type or characteristics of electricity which a utility customer is entitled to demand and an electric utility obligated to furnish. *Earl Carroll Realty Corp. v. New York Edison Co.* 141 Misc 266, PUR 1931E 297, 252 NYS 538. The expressions, "appropriate to the service requested" and "electricity as may be required for lighting such building" cannot be reasonably interpreted to mean "direct current" or "alternating current," or current of any specific phases, wires, volts, etc.

[2] The continuance of the supply of direct current now supplied under Rider "F" would violate the determination made by the Public Service Commission and the defendant's tariff

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MEEROW PRESS, INC. v. CONSOLIDATED EDISON CO. OF N. Y.

schedule, service regulations, and policy for establishing a uniform distribution system based on alternating current. (See P.S.C. Case No. 13341 —Re Furnishing of direct current electric service of Consolidated Edison Company of New York, Inc.— Report of E. A. Bamman, Hearing Examiner, approved by the Commission November 29, 1949.)

Furthermore, it appears it is wholly feasible for plaintiffs to secure a sup-

ply of direct current either by using a transforming device or by operating the private electric plant on the premises which formerly supplied such service before the Rider "F" provisions were established as part of defendant's rate schedule.

Plaintiffs have failed to show a clear legal right to the injunctive relief they seek and the motion is accordingly denied.

VIRGINIA STATE CORPORATION COMMISSION

Ex Parte Chesapeake & Potomac Telephone Company of Virginia

Case No. 9626

March 27, 1950

**A**PPPLICATION by telephone company for approval of rate increase; rate increase in lesser amount than requested granted.

*Return, § 111 — Telephone company.*

A return of 6 per cent upon the value of intrastate property of a telephone company, on the basis of original investment cost less depreciation plus materials and supplies and cash working capital, was held to be fair and reasonable.

(KING, C., dissents.)

By the COMMISSION: This proceeding, which was instituted by order entered herein under date of April 4, 1949, upon the application of The Chesapeake and Potomac Telephone Company of Virginia for approval of certain revised schedules of rates, charges, rules, and regulations, to become effective for use in this state on May 10, 1949, and on successive bill-

ing dates thereafter, as provided in the said schedules, and the effective date of said revised schedules of rates, charges, rules, and regulations having been suspended by the said order of April 4, 1949, and by successive orders herein so as to permit an investigation concerning the reasonableness and justice of the proposal, came on to be heard on June 13, 1949, and on

## VIRGINIA STATE CORPORATION COMMISSION

subsequent dates as a result of continuances granted herein, and having been fully heard, was taken under advisement on January 31, 1950;

Whereupon, this matter now comes on this day to be finally heard and considered upon the application or petition of The Chesapeake and Potomac Telephone Company of Virginia, and the revised schedules of rates, charges, rules, and regulations filed therewith; upon due proof of publication of notice heretofore directed to be given to the public by previous order herein; upon the appearance of the applicant herein by counsel; upon the appearance of certain intervenors as same appear from the transcript of the record herein; upon testimony of witnesses at the hearings hereof, as the same appears in the official transcript of the proceeding; upon exhibits introduced at the hearings hereof and numbered "A" and 1 through 137, respectively; upon relevant records in the files of the Commission; upon the entire record herein; and upon argument of counsel;

Upon consideration whereof, the Commission is of the opinion that:

1. The value of the intrastate property of The Chesapeake and Potomac Telephone Company of Virginia, as of September 30, 1949, on the basis of original cost investment, less depreciation, plus materials and supplies and cash working capital is \$92,331,063;

2. The net return, under present schedules of rates, is approximately 3.7 per cent upon the above valuation;

3. The net return, under proposed schedules of rates filed in this case, is estimated to be approximately 6.4 per cent upon the above valuation;

4. In view of all the facts and circumstances of this case, a fair and reasonable return should not exceed 6.0 per cent upon the above valuation;

5. Reductions in the proposed rates filed in this case on April 4, 1949, hereinafter ordered, in the amount of about \$621,000 per year, would produce a net return of slightly less than 6.0 per cent upon the above valuation [order omitted].

KING, Chairman, dissenting: I cannot concur in the order signed by my colleagues for the following reasons:

I find that the fair value of the property of the company for rate-making purposes in this case to be \$92,000,000, which includes all of its intrastate property, less depreciation, plus an allowance for working capital and materials and supplies. I am further of opinion that, under all the facts and circumstances of this case, a return of 5.5 per cent upon this value will be sufficient and constitute a fair and reasonable return to this company.

This rate of return will produce net annual earnings of \$5,060,000. The evidence shows the net intrastate earnings of the company, as of September 30, 1949, annualized, amounted to \$3,436,782, subtracting the two, I arrive at net earnings needed of \$1,623,218. When this is expressed in gross earnings, I find that the company should have additional gross revenue of \$2,751,216 instead of the \$4,041,000 requested. This difference of \$1,289,784 I would spread among the ordinary business and residential subscribers of the company, excepting special services, extensions and tolls.

INDIANA PUBLIC SERVICE COMMISSION

# Re Michigantown Cooperative Telephone Company

No. 21808

February 3, 1950

**A**PPPLICATION for authority to eliminate free interexchange telephone service; granted.

*Rates, \$ 573 — Telephone — Free interexchange service.*

A telephone company which for several years has been handling calls through another exchange as free service, while a company operating the other exchange has been making charges in the opposite direction, should be authorized to eliminate the free interexchange service and substitute message toll service where the free service on calls away from the company's exchange not only fails to produce any revenues but service on a single existent free toll circuit is wholly inadequate, while the company operating the other exchange is in a position to provide as many trunk lines as may be necessary for toll service.

**APPEARANCES:** Edwin D. Record, Michigantown, for petitioner; Walter F. Jones, Assistant Public Counsellor, for the public.

By the COMMISSION: On the 29th day of November, 1949, the Michigantown Cooperative Telephone Company, Michigantown, Indiana, filed with the Public Service Commission of Indiana its petition for authority to establish a schedule of rates and charges for message toll telephone service on calls from Michigantown, Indiana, to Frankfort, Indiana.

Pursuant to notice by publication as required by statute, a public hearing was held in the above-entitled cause in the rooms of the Commission, 401 State House, Indianapolis, Indiana, at 10 A. M., January 30, 1950, with appearances as above noted.

Oral testimony in support of the petition was offered by Mr. Willard Perrel, president of petitioner.

The evidence disclosed that for many years, calls placed by subscribers at the Frankfort exchange of the Indiana Bell Telephone Company to subscribers at petitioner's Michigantown exchange have been handled as toll calls at rates in accordance with said Indiana Bell Telephone Company's message toll telephone tariff on file with this Commission, whereas calls placed by subscribers at petitioner's Michigantown exchange for subscribers at the Frankfort exchange of the Indiana Bell Telephone Company have been handled as free service calls by petitioner.

The evidence further shows that free service on calls from the



## INDIANA PUBLIC SERVICE COMMISSION

Michigantown Cooperative Telephone Company to the Frankfort exchange of the Indiana Bell Telephone Company not only fail to produce any revenues for petitioner, but that service on the one existent free toll circuit is wholly inadequate for subscribers of petitioner.

The evidence further indicates that the Indiana Bell Telephone Company is in a position to provide as many trunk lines as are necessary in order to take care of toll services from

Michigantown to its Frankfort exchange.

The Commission, having heard and considered the evidence in the above-entitled cause and being duly advised in the premises, now finds that petitioner should be authorized to establish message toll telephone service in lieu of the existing free service on calls from subscribers at petitioner's Michigantown exchange to subscribers at the Frankfort exchange of the Indiana Bell Telephone Company.



G-E I

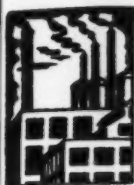
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# Industrial Progress

*A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.*



## G-E Building World's Largest Testing Station

CONSTRUCTION of a new high-capacity short-circuit testing station, the largest of its type in the world to test switchgear equipment, was announced by R. F. Tinnerholm, manager of General Electric's Switchgear Divisions.

Located near G-E's switchgear plant in Philadelphia, the test station will be capable of delivering three million kilovolt-amperes at generator voltages on a three-phase symmetrical basis and testing power circuit breakers and other switchgear apparatus at voltages up to and including 440,000 volts. The new facility's proximity to the actual manufacture of switchgear equipment will greatly facilitate testing and designing. Heretofore, switchgear equipment has been sent to the company's facilities in Schenectady, N. Y., for test.

## A. J. Maslin Promoted At Westinghouse

ALBERT J. MASLIN has recently been appointed assistant to the engineering manager of the Westinghouse Electric Corporation, Transformer Division at Sharon, Pa. In his new assignment, he will continue to head the General Transformer Development Section and in addition will be responsible for transformer insulation development and coordination of many other engineering projects at the Sharon plant.

## Burroughs Exhibits Three New Additions to Product Line

BURROUGHS ADDING MACHINE COMPANY exhibited three entirely new additions to its product line in the 1950 Office Machinery and Equipment Exposition, held recently in Cleveland, Ohio.

Featured was the company's "Sensimatic" accounting machine, embodying a new type of automatic control through a "sensing" unit, which contains a pre-arranged set of controls for specific accounting jobs. This control unit makes possible a wide range of flexibility. Each unit contains four entirely different accounting programs and may be removed completely and replaced by another unit designed for four totally different accounting jobs. The number of possible variations in controlling the functions of the machine and in accommodating it to various types of accounting forms, runs high into the millions.

Another new Burroughs machine displayed was an automatic ticket-issuing and account-

ing machine for railroads, airlines, and bus lines, which will automatically print tickets to any destination from blank stock, showing the date, serial number, fare, type and class of ticket—thus replacing the large supply of pre-printed tickets presently required.

Burroughs display also included the latest improved Bell and Howell microfilm equipment, which Burroughs distributes and services. The microfilm Recorder, which embodies 26 new features, reproduces photographically both sides of a document simultaneously and can be equipped with automatic units capable of feeding check-size documents into the machine at the rate of more than 400 per minute.

Other new Burroughs machines at the Cleveland show included a new automatic bank accounting machine and a new payroll machine. The payroll machine makes possible more efficient handling of the calculation and preparation of payrolls through automatic features which prepare several records simultaneously.

Also on display were new model Burroughs machines designed to handle such specialized figuring tasks as cycle billing, which cuts billing time to a minimum through automatic operation; and receipting and validating, providing both versatility and protection for utilities, tax offices, and stores.

## Combustion Elects Two New Vice Presidents

H. G. EBDON and William P. E. Ainsworth have been elected vice presidents of Combustion Engineering-Superheater, Inc., New York.

Mr. Ebdon joined the company in 1917 and since 1925 has served successively as manager of the Proposition Department; sales engineer,

(Continued on page 46)

## MEND-IT-SLEEVE



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Permanently repairs broken coils in electric appliances and industrial equipment. Splices appliance cord, auto and truck ignition wire, and all similar uses. Made in 5 sizes. Time tested, successful, economical.

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New York district office; and assistant general sales manager. In 1941 he was appointed general sales manager of boilers and related equipment. He will continue in the latter capacity, working in association with Donald S. Walker, the company's vice president and director of sales.

Mr. Ainsworth entered the employ of the company in 1921 as a service engineer and later became manager of the Service and Erection Department. In 1939 he was appointed general purchasing agent and in 1942 was also made production manager. As a vice president he will continue in charge of purchasing and production for the company's six American manufacturing plants.

### New RLM Specifications Booklet Published

A NEWLY-REVISED edition of the RLM Specifications Booklet, containing four officially-approved new specifications, as well as important revisions of existing RLM Specifications, has been issued by the RLM Standards Institute, Chicago, Ill. Entitled "RLM Standard Specifications for Industrial Lighting Units," this 44-page booklet contains detailed specifications for 18 different fluorescent and incandescent industrial lighting units which carry the RLM Label. It is available without charge to anyone interested in the proper planning of lighting for industry, business, schools, institutions, etc.

### Hotpoint Vice President Elected

WILLIAM A. KISSOCK has been elected vice president of industrial relations, by the board of directors, Hotpoint, Inc., James J. Nance, president, announced recently. Mr. Kissock previously has been manager of the department, a position he has held since he joined the company in 1949.

Before joining Hotpoint he headed industrial relations for the Flintkote Company.

### G-E Appointment

THE appointment of A. E. Higgins to the newly created post of manager, gas utility relations, Air Conditioning Department, General Electric, was announced recently by H. M. Brundage, manager, sales division. Creation of

the new position is in line with the company's increased activities in the gas heating field.

Prior to the appointment, Mr. Higgins was vice president of the Rockwell Manufacturing Company, International Division, New York.

### Electric Utilities Conducting Large Expansion Programs

LARGE construction programs are being conducted by the electric utility companies to meet unprecedented demands for service. In annual reports for 1949, many companies give a brief summary of their last year's construction activities and plans for 1950. The following excerpts, taken from a number of these reports, indicate the extent of these expansion programs.

**Alabama Power Company** (Birmingham, Ala.) made gross additions to plant for the years 1946 through 1949 amounting to \$63,607,970. It is anticipated that additions totaling over \$37,000,000 will be made in 1950 and 1951.

**American Gas and Electric Company** (30 Church St., New York 8) spent \$189,350,000 from 1947 through 1949 on system improvements and additions. It plans to spend another \$135,650,000 by the end of 1951, to raise the estimated total for new facilities in the five year period to \$325,000,000.

**Arizona Edison Company, Inc.** (Phoenix, Ariz.) reports that its 1949 construction expenditures—\$2,214,611—were the largest in the company's history. The company proposes to spend approximately \$1,500,000 in 1950.

**The California Oregon Power Company** (Medford, Ore.) plans to continue during 1950 its vigorous program of system expansion. Expenditures authorized for 1950 amount to \$10,330,502.

**California-Pacific Utilities Company** (San Francisco, Cal.) invested \$1,500,194 in 1949 on expansion, the highest one-year total to date, placing \$1,115,495 in new construction of electrical properties, \$277,238 in utility gas and tank gas facilities, \$65,481 in the water department, and \$41,980 in telephone and other facilities. The construction budget for 1950 is \$1,172,000.

**Carolina Power & Light Company** (Raleigh, N. C.) plans an expenditure of \$18,000,000 for new construction during 1950. More than one-half of this amount will be spent for the completion of the Lumberton steam electric generating plant and to provide for initial stages of construction of the Goldsboro steam electric generating plant.

**Central Illinois Light Company** (Peoria, Ill.) has invested over \$16,000,000 in the improvement and enlargement of electric and gas plant property during the last three years. Expenditures for construction in 1949 totalled \$5,186,567.

**Central Power and Light Company** (Corpus Christi, Tex.) reports that 1949 was the biggest year of expansion in the company's history, with a total of \$10,408,200 spent for new facilities.

**Central Vermont Public Service Corporation**  
(Continued on page 48)

## ASSISTANT TO EXECUTIVE

in charge of rates, large natural gas system operating in Appalachian area. Engineering graduate under 45. Experience in rate case work before State and Federal Commissions, development of rate structures, contract negotiations. New York City headquarters. Unique opportunity for right man having the necessary professional and personal qualifications. Write complete details of background and experience. Also state references and salary required.

Write: Public Utilities Fortnightly,  
Dept. A, 309 Munsey Bldg., Washington 4, D. C.

## Close-Up of America's No. 1 Furnace



o, this isn't a flood of volcanic lava, but red hot coke being thrust from a coke oven just before being rolled into a quenching tower where it will be cooled by air or by thousands of gallons of water.

ou already know that coke provides the carbon that makes raw ore into iron. But you may be surprised to learn that at the same time these ovens are making coke from bituminous coal, they're also distilling the chemical elements which go to make products like nylon, aspirin, perfume, sulfa drugs, synthetic rubber and almost 10,000 other things.

o provide coal of dependable quality, in volume and at reasonable cost, for coke ovens, railroads, electric power plants, factories, offices and homes, the bituminous coal industry has invested hundreds of millions of dollars in the past ten years. Some of it has paid for new mines and mining machinery. But a lot of this money has helped build huge mechanized coal preparation plants in which coal is washed, graded, blended and treated to meet the needs of different types of coal burning equipment. That's why industry and coal consumers are finding that this specially prepared coal is the most dependable and economical of fuels.

**Modernizing** America's bituminous coal mines has meant replacing "pick-and-shovel" mining with machines. Today more than 91% of production is mechanically cut and 60% is mechanically loaded. As a result the worker in a modern mine is less and less a "miner," more and

more a skilled machine operator. Largely as a result of this modernization, the American miner's average daily output is five times greater than that of the British miner—and the American miner's take-home pay is higher than that paid by any other major American industry.

**BITUMINOUS COAL**  
**BITUMINOUS COAL INSTITUTE**  
 A DEPARTMENT OF NATIONAL COAL ASSOCIATION  
 WASHINGTON, D. C.

(Rutland, Vt.) expended \$1,470,738 during 1949. The bulk of this was for extensions and improvements to the electric distribution system.

**Citizens Utilities Company** (Greenwich, Conn.) has a construction budget for the current year of \$1,632,000.

**Columbus and Southern Ohio Electric Company** (Columbus, Ohio) spent approximately \$18,468,500 during 1949. The company expects to spend more than \$45,000,000 on additions and improvements during 1950, 1951, and 1952.

**Commonwealth Edison Company** (Chicago, Ill.) spent \$119,722,914 in 1949 for construction. Estimated expenditures for the years 1950 through 1953 amount to \$290,000,000, subject to change as conditions require. The programs may be increased by as much as \$40,000,000 depending upon studies now being made.

**The Connecticut Light and Power Company** (Hartford, Conn.) reports that expenditures in 1949 for its expansion program reached a postwar peak. The largest single project was the installation of a 66,000 kilowatt turbo-generator at the Devon steam plant. It will be followed this year with the addition of another unit of the same capacity.

**Consolidated Edison Company of New York, Inc.** (4 Irving Pl., New York 3) reports that its construction expenditures for 1949 amounted to \$78,000,000 making a total of \$263,000,000 since the end of the war. Present plans for the period 1950-1953 total \$257,000,000.

**Consumers Power Company** (Jackson, Mich.) invested \$38,443,374 in additions to and improvements of its electric and gas facilities during 1949, for a total of \$191,742,199 during the period 1939-1949. A \$40,000,000 construction program is planned for 1950.

**The Dayton Power and Light Company** (Dayton, Ohio) reports that its construction and expansion program started in 1946, and scheduled for completion in 1952, is about 61 per cent completed. It is estimated to cost \$94,263,000.

**The Detroit Edison Company** (Detroit, Mich.) invested more than \$51,000,000 in new construction in 1949, passing the half-way mark in its present 400,000 kilowatt expansion program.

**Duquesne Light Company** (Pittsburgh, Pa.) spent \$21,250,000 in 1949 for additions to plant. It is indicated that construction in 1950 will amount to \$20,600,000.

**The Empire District Electric Company** (Joplin, Mo.) spent more than \$5,500,000 during 1949 for new construction.

**Florida Power Corporation** (St. Petersburg, Fla.) spent almost \$10,000,000 for expansion of the property in 1949.

**Florida Power and Light Company** (Miami, Fla.) has a 6-year (1946-1951) construction program, aggregating \$108,000,000. Expenditures for 1949 totaled \$18,700,000. It is expected that \$18,000,000 will be spent during 1950, and \$19,000,000, in 1951.

(Continued on page 50)



# SUNSTRAND

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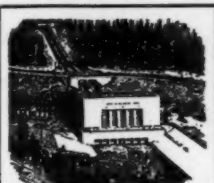
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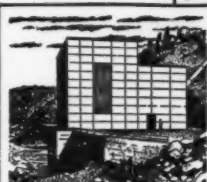
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## MILLION XPAYING HORSEPOWER



**Cresta Powerhouse**, on the Feather River, came on the line in November, 1949 and produces 101,000 horsepower.



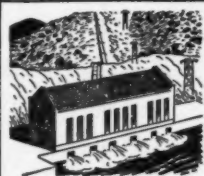
**Colgate Powerhouse**, on the Yuba River, started pouring out 40,200 horsepower for California in June, 1949.



**Station "P"**, the steam giant by San Francisco Bay, added a big 298,000 new horsepower in February, 1949.



**West Point Powerhouse**, on the Mokelumne River, added another 21,000 horsepower in November, 1948.

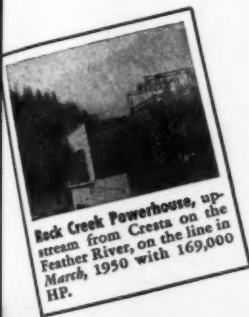


**Electric Powerhouse**, on the Mokelumne River, produces 133,000 horsepower. It came on the line in July, 1948.



**Kern Steam Plant**, near Bakersfield, began turning out 101,000 horsepower in May, 1948. Increased to 235,000 HP last month.

## BUILDING A MORE POWERFUL CALIFORNIA



**Rock Creek Powerhouse**, upstream from Cresta on the Feather River, on the line in March, 1950 with 169,000 HP.

Shown here, stacked like giant building blocks, is P. G. and E.'s answer to the growing need for electric power in Northern and Central California. Seven powerhouses have been completed since the war... five of them "hydro" plants on mountain rivers, and two steam-driven. Two more giant steam plants, each designed to produce 402,000 horsepower, are under construction and slated for completion by mid-1951. Here is ample proof that private power companies are able to meet today's tremendous power demands ... without subsidy or tax exemption.

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ANYONE engaged in heating, ventilation, refrigeration, or home construction work will find this survey of the American and European heat pump fields a valuable tool in day-to-day operations. This manual gives concise and complete discussions of heat pump elements, compressors, fans, ducts, electric motors, accessories, heat pump cycles, and the thermodynamics of refrigerants and cycles. Extensive use is made of diagrams, charts and tables.

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- a step-by-step explanation of how the heat pump works
- current applications of refrigerants to heat-pump purposes
- the selection of equipment with regard to economy and comfort, etc., etc.

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JUNE 8, 1950

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*Houston Lighting & Power Company* (Houston, Tex.) expended approximately \$26,968,000 during 1949. The construction budget for 1950 is about \$19,000,000.

*Idaho Power Company*, (Boise, Idaho) reports that 1949 witnessed the peak of the company's postwar construction program with the expenditure of nearly \$23,000,000. In the year 1950, expenditures are expected to total about \$8,000,000.

*Interstate Power Company* (Dubuque, Iowa) reports that property additions for the five-year period ended December 31, 1949, were \$23,396,411, of which \$5,849,632 was spent during 1949. The 1950 construction program is expected to amount to \$6,500,000.

*Kansas City Power & Light Company* (Kansas City, Mo.) reports that its construction program reached a postwar peak in 1949, with utility plant expanding from \$112,654,804 to \$125,875,584 during the year. Additions planned for 1950, 1951, and 1952 are estimated at \$43,000,000.

*Louisville Gas and Electric Company* (Louisville, Ky.) spent over \$11,000,000 in 1949—an all time high. A construction budget of approximately \$9,100,000 has been authorized, about \$8,700,000 of which will be expended in 1950.

*Metropolitan Edison Company* (Reading, Pa.) reports that additions to the property of the company and its subsidiary during the year 1949 totalled \$11,926,935. The present forecast of construction expenditures for the years 1950, 1951, and 1952 exceeds \$45,000,000.

*Middle South Utilities, Inc.* (2 Rector St., New York 6) reports that present construction plans for its system companies will require the expenditure of about \$90,000,000 in the next two years.

*Minnesota Power & Light Company* (Duluth, Minn.) embarked upon a 3-year expansion program in 1947 contemplating the expenditure of about \$14,000,000. The program has been expanded to a 5-year expenditure totaling about \$22,000,000 to be completed in 1951.

*Mississippi Power Company* (Gulfport, Miss.) completed the largest single year construction program in the company's history in 1949—over \$6,000,000 was spent for new generating, transmission, distribution, and related facilities.

*The Montana Power Company* (Butte, Mont.) is going ahead in 1950 with two major construction programs, which include a 66,000-kilowatt steam-electric generating station and an 83-mile natural gas transmission line. It is estimated that the program for 1950 and 1951, will require \$28,000,000.

*Mountain States Power Company* (Albany, Ore.) expended \$4,448,000 in 1949 on construction, approximately \$219,000 less than the record-breaking expenditure of 1948.

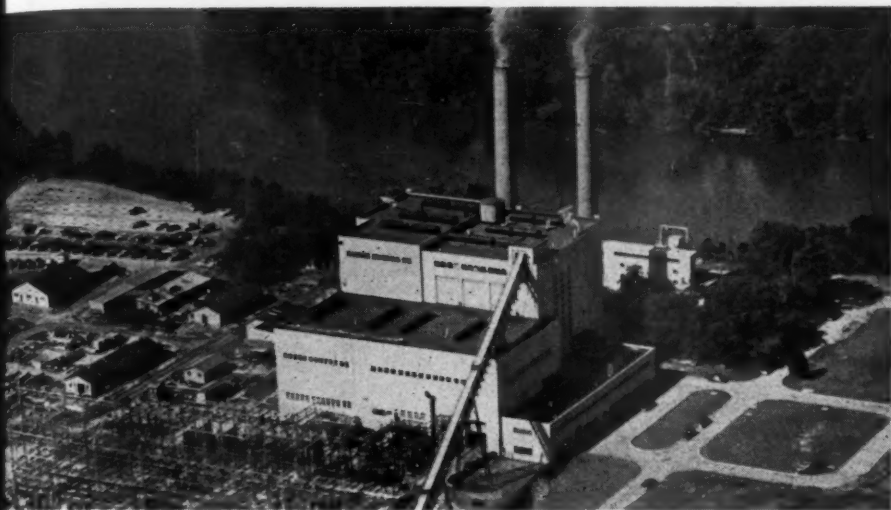
*New York State Electric & Gas Corporation* (Ithaca, N. Y.) spent \$18,350,000 for new construction in 1949, the highest amount in the company's history. New construction is contemplated during the next three years, 1950 through 1952, involving expenditures of \$55,-

(Continued on page 52)

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# Electric Power for Every Purpose



*CHESTERFIELD station, recently doubled in capacity, is now to have another 100,000 Kw. unit added.*

ELECTRIC power already is available to over 90% of the people of Virginia (86% of the farms are now connected) and new customers are being connected up on the Vepco System at the rate of one customer every four minutes . . . or 120 new customers per working day. That was the record for 1949 when 31,406 new customers were connected, including over 19,000 rural customers, a gain of over 7%, the largest increase in any year in the history of the company.

Looking to the needs ahead, a long-range construction program, involving the expenditure of \$150,000,000, was begun in 1946. Besides transmission lines, substations and interconnection facilities with our neighbors, the construction program includes six new steam generating units which, when completed in 1952, will add

400,000 Kw. capacity to the Vepco system, 220,000 Kw. of this new capacity now being in operation. A hydro-development on the Roanoke river near Roanoke Rapids, N. C., to develop a further 90,000 Kw. of electric power also is on the program for construction as soon as the necessary approval is obtained from the Federal Power Commission where application for a license to make this development is now pending.

There has been no curtailment of Electric Power in the Vepco territory and the added capacity resulting from this expansion program assures an adequate supply of reliable electric power on the Vepco System where the combination of natural resources, good climate, excellent transportation, splendid workers and other advantages invite industrial development.

## VIRGINIA ELECTRIC AND POWER COMPANY

800,000, of which about \$20,000,000 is for the year 1950.

**Niagara Mohawk Power Corporation** (Niagara, N. Y.) reports that its three year construction program, 1948-1950, is expected to amount to approximately \$113,000,000. About \$70,000,000 was expended by the end of 1949 and \$43,000,000 is budgeted for the year 1950.

**Northern States Power Company** (Minneapolis, Minn.) has a five-year construction program, 1947-1951, which contemplates extensive additions and improvements to system properties involving estimated expenditures of approximately \$160,000,000. Expenditures during 1949 amounted to \$39,047,586.

**Oklahoma Gas and Electric Company** (Oklahoma City, Okla.) reports that since the close of the war, the company has expended \$46,500,000 in new plant. The total construction budget for 1950 amounts to \$16,150,000.

**Pacific Power & Light Company** (Portland, Ore.) reports that its postwar building program reached a new peak during 1949 with \$8,999,213 spent for additions and betterments to the system. This exceeded by \$680,000 the amount spent in 1948, the previous record year. Since 1945, more than \$29,000,000 of new construction has been carried on by the company.

**Pennsylvania Electric Company** (Johnstown, Pa.) spent \$13,300,000 in 1949 for expansion and improvement of facilities. To keep pace with the growing demand for electricity, \$15,600,000 has been budgeted for 1950.

**Pennsylvania Power Company** (New Castle, Pa.) expended \$2,614,805 in 1949 on new construction. During the year, ground was broken on an 85,000-kilowatt addition to the New Castle Power Plant, estimated to cost \$12,171,000. The addition is scheduled for completion in 1952.

**Pennsylvania Power & Light Company** (Allentown, Pa.) spent \$32,000,000 on construction in 1949. Its budget for 1950 is \$28,600,000. For the three years ending with 1952, it is estimated that the total expenditure will be \$60,500,000.

**Philadelphia Electric Company** (Philadelphia, Pa.) reports expenditures of \$40,512,403 were made during 1949 for additional generating capacity, for extensions and reinforcements of the transmission and distribution system, and for additions to the gas and steam properties. Estimated construction expenditures for the year 1950 are budgeted at approximately \$54,000,000.

**Potomac Electric Power Company** (Washington, D. C.) spent \$23,621,163 on construction during 1949. It is estimated that gross expenditures during 1950-1952 will total \$42,779,000.

**Public Service Company of New Hampshire** (Manchester, N. H.) spent \$10,233,750 in 1949 for additions to and replacements of equipment and other facilities.

**Rochester Gas and Electric Corporation** (Rochester, N. Y.) reports that the cost of additions and improvements to the company's system during the year totaled \$11,001,179. The construction budget for 1950 is estimated at \$13,588,805. Of this amount, \$9,810,279 is for the electric system; \$2,925,340 for additions

and improvements to the gas system; and \$853,186 for the steam heating and common utility plant.

**San Diego Gas & Electric Company** (San Diego, Cal.) completed several notable construction projects in 1949, including the new Moreno-to-San Diego transmission line bringing in Texas natural gas. The part of this line built by the company cost about \$2,400,000. It increases the company's natural gas supply by more than 100 per cent. A budget of approximately \$12,500,000 has been approved for 1950.

**Southern California Edison Company** (Los Angeles, Cal.) spent \$70,227,085 in 1949. The budget for 1950 totals \$51,518,523, or \$18,708,562 less than such expenditures for 1949.

**Southern Indiana Gas and Electric Company** (Evansville, Ind.) has a \$15,000,000 program, begun in 1948 and continuing through 1951, which will provide expanded electric and gas supply.

**Texas Utilities Company** (Dallas, Tex.) reports that since the end of 1945, its subsidiaries have made net additions exceeding \$100,000,000 to their plant accounts, an increase of about 66 per cent. Total additions of approximately \$39,000,000 were made in 1949. Construction work in progress at the end of the year exceeded \$20,000,000.

**The Tucson Gas, Electric Light and Power Company** (Tucson, Ariz.) expects that total construction expenditures for the year 1950 will amount to approximately \$1,283,000.

**Union Electric Company of Missouri** (St. Louis, Mo.) reports that a long stride was taken in its 15-year \$400,000,000 expansion program during 1949 with a record of \$36,500,000 spent for construction—the greatest amount ever invested in any one year in new property by Union Electric. Budgeted expenditures for 1950 total \$37,000,000; and for the five years ending in 1954, \$137,000,000.

**Virginia Electric and Power Company** (Richmond, Va.) has a construction program for 1946-1951 which will require the expenditure of approximately \$153,800,000. The estimates for 1950 and 1951 total \$66,500,000 of which \$37,500,000 will be expended in 1950.

**The Washington Water Power Co.** (Spokane, Wash.) conducted another tremendous building program during 1949 with more than \$4,000,000 being expended for new and improved facilities. Another \$5,000,000 has been allocated for 1950's construction program.

**Western Light & Telephone Company, Inc.** (Kansas City, Kan.) spent approximately \$4,700,000 on additions, extensions, and replacements during 1949, as compared with \$2,800,000 spent in 1948. The construction program for 1950 will require expenditures in excess of \$3,000,000.

**Wisconsin Electric Power Company** (Milwaukee, Wis.) is engaged in extensive construction activities which, for the three year period, 1949-1951, will require expenditure of about \$42,400,000. Additions and improvements in 1949 amounted to \$16,757,134.

**Wisconsin Power and Light Company** (Madison, Wis.) spent \$8,815,000 in 1949 for expansion purposes. The construction budget for 1950 is estimated at \$10,700,000.

# THERE'S A BIG DIFFERENCE IN TRUCKS

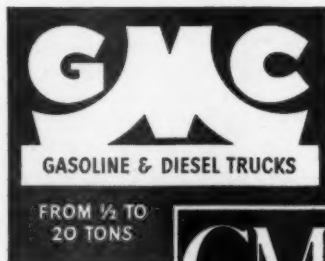
## AND HERE'S THE PROOF

### TRUCK BUYER'S GUIDE ½ TO 2 TONS

How leading makes of trucks compare in twelve major features that insure greater dependability, longer life and lower maintenance.

| FEATURES   | GMC<br>TRUCK | TRUCK<br>"A" | TRUCK<br>"B"   | TRUCK<br>"C" | TRUCK<br>"D" |
|--|--------------|--------------|----------------|--------------|--------------|
| Power and efficiency of<br>VALVE-IN-HEAD ENGINE                          | YES          | YES          | NO             | NO           | YES          |
| TOP HORSEPOWER<br>in normal operating range                              | YES          | NO           | NO             | NO           | YES          |
| LEADS IN USABLE TORQUE   | YES          | NO           | NO             | NO           | NO           |
| FULL-PRESSURE LUBRICATION<br>of all main bearings and piston pins        | YES          | NO           | NO             | NO           | YES          |
| SYNCHRO-MESH TRANSMISSION<br>with Cushion Disc Clutch                    | YES          | YES          | Some<br>Models | YES          | YES          |
| Easy-Turn Recirculating<br>BALL-BEARING STEERING GEAR                    | YES          | YES          | NO             | NO           | NO           |
| SEPARATELY MOUNTED FENDERS, GRILLE<br>AND RADIATOR for economical repair | YES          | NO           | NO             | NO           | NO           |
| TORSIONAL DAMPENER<br>for engine smoothness                              | YES          | YES          | YES            | NO           | YES          |
| BUILT-IN RADIATOR EXPANSION<br>TANK—prevents coolant loss                | YES          | NO           | NO             | NO           | NO           |
| DOUBLE-WRAPPED FRONT SPRING<br>EYES for front axle stability             | YES          | YES          | Some<br>Models | NO           | NO           |
| TOCCO-HARDENED CRANKSHAFT<br>Dynamically balanced                        | YES          | NO           | NO             | NO           | NO           |
| STEEL-BACKED AIRPLANE TYPE<br>MAIN AND ROD BEARINGS                      | YES          | NO           | NO             | NO           | NO           |

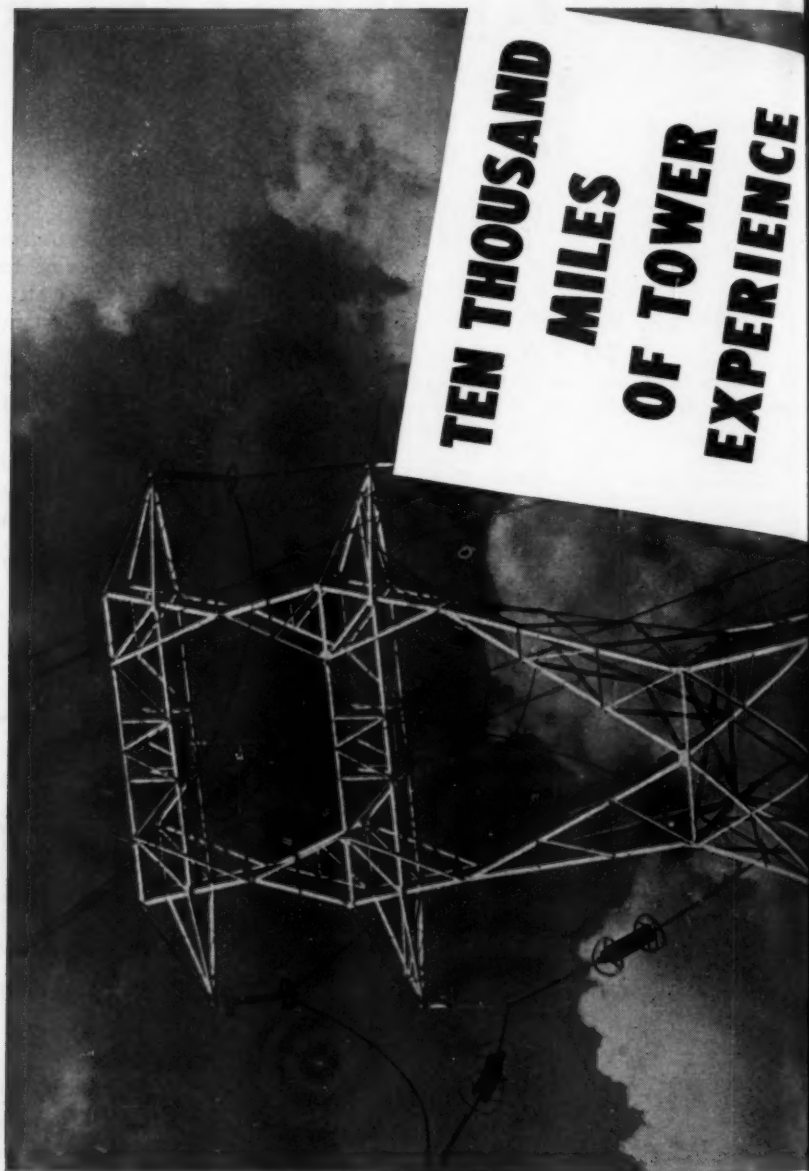
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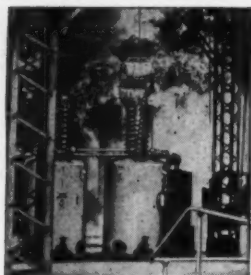
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ADDRESS .....

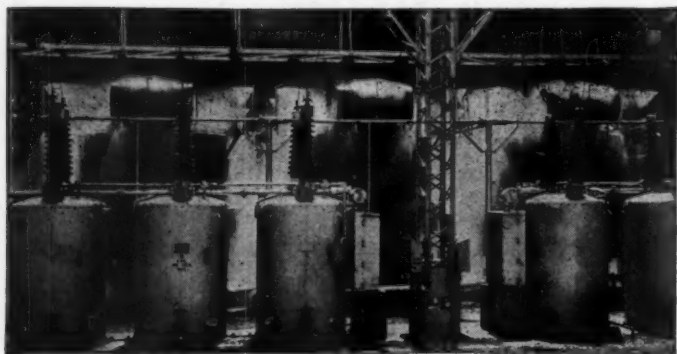


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## MULSIFYRE NOW ON GUARD TO KILL OIL FIRES FAST



Transformers at this electric power station are safeguarded by a Grinnell Mulsifyre installation. Fast, automatic spray action is being demonstrated here.

When an oil fire breaks out in transformers protected by a Mulsifyre system, a battery of spray projectors puts out the fire . . . fast. Automatic, heat-actuated release devices assure quick operation. Extinguishment occurs within a few seconds after the emulsion-forming spray strikes the surface of the burning oil.

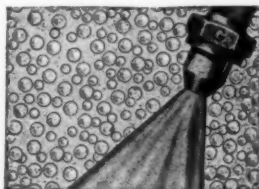
Mulsifyre projectors are approved by Underwriters' Laboratories, Inc. for extinguishing fires in flammable oils immiscible with water, wherever such oil is a fire hazard. There is no conductivity along the discharge of a Mulsifyre projector when the spray strikes conductors carrying high voltages.

Mulsifyre high-velocity projectors produce drops large enough and drive them fast enough to penetrate the flames without complete vaporization in flight, but limit their velocity so the surface of the burning liquid is agitated into an emulsion instead of passing through the oil without fire-extinguishing effect. After a period of time, the emulsion

breaks down, oil and water separate, and the oil can be reclaimed.

Mulsifyre systems have proven their effectiveness during sixteen years of extinguishing transformer fires. Today they protect hundreds of installations all over the world.

For information on Mulsifyre Systems or other Grinnell Fire Protection Systems write to Grinnell Company, Inc., Providence, R. I. Office in principal cities.



# GRINNELL *Mulsifyre*

## EMULSION-EXTINGUISHMENT OF OIL FIRES

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More than two-thirds of the 69,770 stockholders of Pennsylvania Power & Light Company are Pennsylvania resi-

dents. They own 58% of the shares. The number of these local owners has increased 40% in a little over a year-and-a-half.

More than one-third of our employees are stockholders.

Our stockholders are also small investors, as demonstrated by a recent survey of the people who own our common stock. There are as many with incomes below \$4200 a year as with incomes above.

*This high level of interest by local people is fundamental to furthering the American Way. Doesn't this fact demand consideration by every American business?*

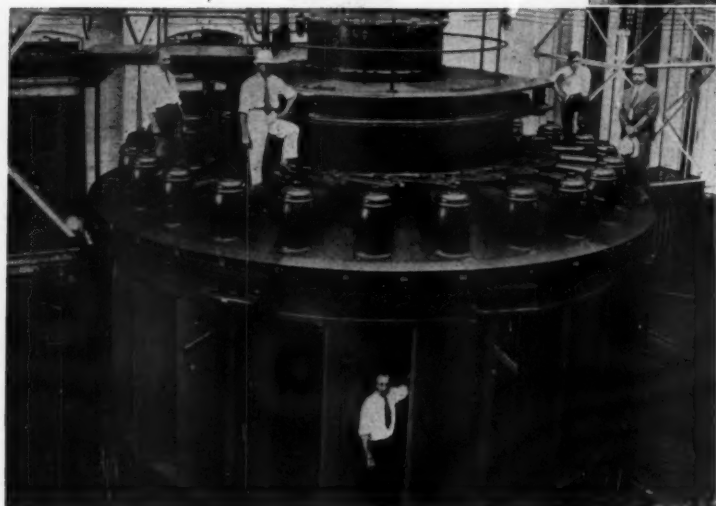
**PENNSYLVANIA POWER & LIGHT COMPANY**



FROM THE  
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**500 Horsepower—  
83-foot Head**



**57,000 Horsepower—  
81-foot Head**

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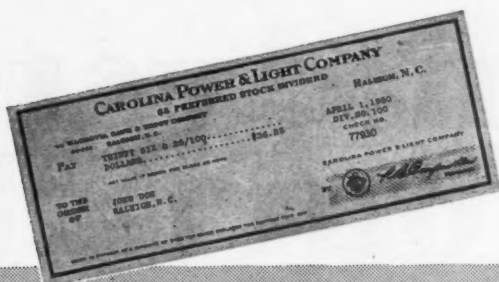
Shown above is one turbine using a 16½-inch runner in a cast iron spiral casing and another using a 238½-inch runner in a riveted steel plate spiral casing.

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Although a full dividend was earned, only a half dividend was paid during seven quarters of 1933 and 1934 because of the uncertainty of conditions. The amount withheld was "caught-up" in 1936.

It is a matter of pride to us that 83.5 per cent of the holders of the Company's preferred stock are residents of the Carolinas.

Of the total of more than 31,000 stockholders of the Company, 6,500 are preferred stockholders who own an average of 25 shares each. The 25,000 holders of the Company's common stock own an average of 49 shares each. The largest stockholder of the Company owns less than two per cent of the shares outstanding.

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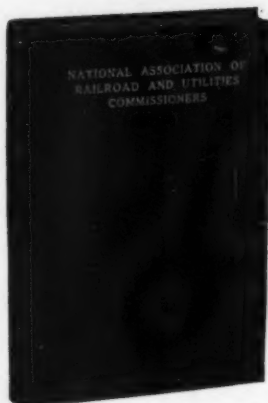


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This manual is the result of the NARUC and FCC Joint Committee studies, and develops a system of procedure providing for allocating telephone operating expenses and investment among exchange, state toll, and interstate toll service on both the board-to-board and station-to-station bases of rate making (not included in the volume of Proceedings above referred to.) Printed, 87 pages .....\$2.00

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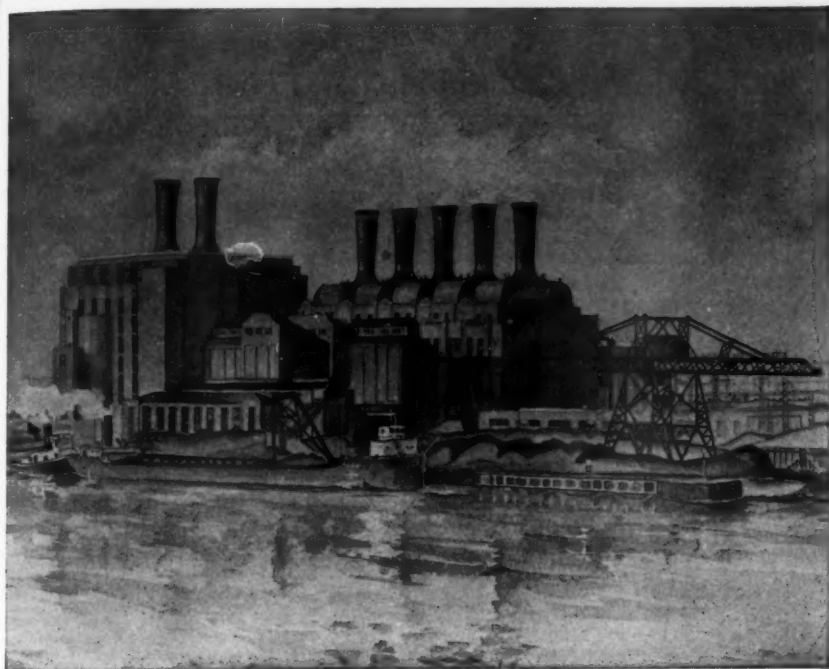
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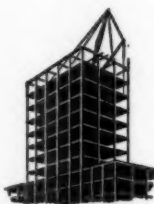


AN ARCHITECT GOT A MONEY-MAN TO ADMIT,

"I never thought of floors in relation to earning power"

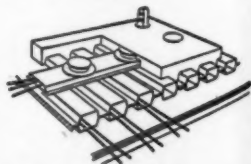


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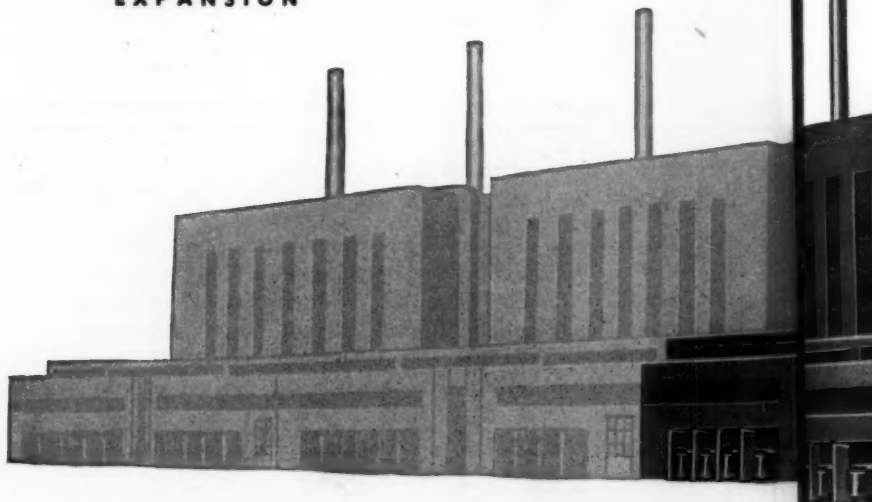


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An extension of 100,000 kw capacity, now under construction, will be completed in 1951 and equipped with Foster Wheeler Steam Generators.

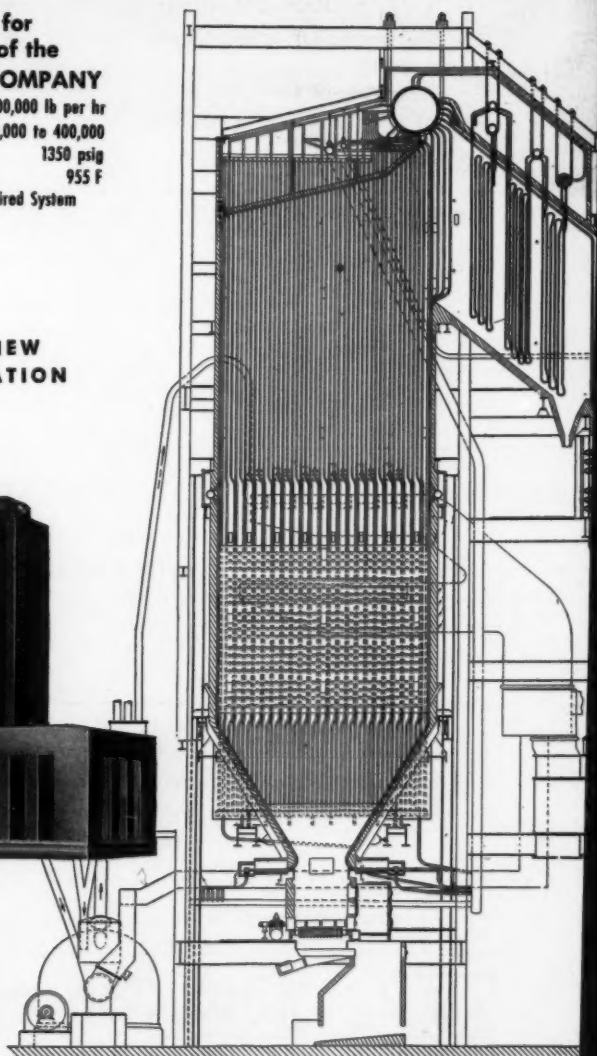
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| A  |                    | J  |                   |
|--|--------------------|--|-------------------|
| Alabama Power Company .....                          | 28                 | Jackson & Moreland, Engineers .....                  | 7                 |
| Albright & Friel Inc., Engineers .....               | 75                 | Jensen, Bowen & Farrell, Engineers .....             | 7                 |
| *Allen & Company .....                               | 72                 | K  |                   |
| American Appraisal Company, The .....                | 72                 | Kidder, Peabody & Co. ....                           | 7                 |
| American Gas and Electric Company .....              | 25                 | King, Dudley F. ....                                 | 7                 |
| B  |                    | Kinnear Manufacturing Company, The .....             | 7                 |
| Babcock & Wilcox Company, The .....                  | 4-5                | Kuljian Corporation, The, Engineers .....            | 7                 |
| Bangor Hydro-Electric Company .....                  | 15                 | L  |                   |
| *Bankers Trust Company .....                         | 7                  | *Langley, W. C., & Company .....                     | 7                 |
| Barber Gas Burner Company, The .. Inside Front Cover |                    | *Leece-Neville Company, The .....                    | 7                 |
| Bituminous Coal Institute .....                      | 47                 | Letter, William S., Engineers .....                  | 7                 |
| Black & Veatch, Consulting Engineers .....           | 75                 | Loeb and Eames, Engineers .....                      | 7                 |
| Blaw-Knox Division of Blaw-Knox Co. ....             | 54-55              | Long Island Lighting Company .....                   | 7                 |
| Blyth & Co., Inc. ....                               | 13                 | Lord Electric Company, Inc. ....                     | 7                 |
| C  |                    | Lougee, N. A., & Company .....                       | 7                 |
| Carolina Power & Light Company .....                 | 63                 | Lucas & Lulek, Engineers .....                       | 7                 |
| Carter, Earl L., Consulting Engineer .....           | 75                 | M  |                   |
| Cleveland Trencher Co., The .....                    | 45                 | *Main, Chas. T., Inc., Engineers .....               | 7                 |
| Cochrane Corporation .....                           | 29                 | Mend-it-Sleeve Manufacturing Co. ....                | 7                 |
| Combustion Engineering-Superheater, Inc. ....        | 16-17              | Marcol Corporation, The .....                        | 7                 |
| D  |                    | Merrill Lynch, Pierce, Fenner & Beane .....          | 7                 |
| Dayton Power and Light Company, The .....            | 37                 | Montana Power Company, The .....                     | 7                 |
| Day & Zimmermann, Inc., Engineers .....              | 72                 | *Morgan Stanley & Co. ....                           | 7                 |
| Detroit Edison Company, The .....                    | 47                 | N  |                   |
| Dodge Division of Chrysler Corp. ....                | 40                 | National Association of Railroad and Utilities ..... | 7                 |
| E  |                    | Commissioners .....                                  | 7                 |
| Ebasco Services, Incorporated .....                  | 56                 | New York Society of Security Analysts, Inc. ....     | 7                 |
| Edison, Thomas A., Inc. ....                         | 34                 | Newport News Shipbuilding & Dry Dock Co. ....        | 7                 |
| Electric Storage Battery Company, The .....          | 38                 | P  |                   |
| Electrical Testing Laboratories, Inc. ....           | 72                 | Pacific Gas and Electric Company .....               | 7                 |
| F  |                    | Pandick Press, Inc. ....                             | 7                 |
| First Boston Corporation, The .....                  | 11, 39             | Pennsylvania Power & Light Company .....             | 7                 |
| Fitter, Edwin H., Co., The .....                     | 15                 | Pioneer Service & Engineering Company .....          | 7                 |
| Florida Power & Light Company .....                  | 59                 | Potomac Electric Power Company .....                 | 7                 |
| Ford, Bacon & Davis, Inc., Engineers .....           | 72                 | R  |                   |
| Foster Wheeler Corporation .....                     | 70-71              | Recording & Statistical Corp. ....                   | 7                 |
| G  |                    | Remington Rand Inc. ....                             | 18-19             |
| Gannett Fleming Corrdy and Carpenter, Inc. ....      | 75                 | Robertson, H. H., Company .....                      | 7                 |
| General Electric Company .....                       | Outside Back Cover | S  |                   |
| Georgeson & Company .....                            | 69                 | Sanderson & Porter, Engineers .....                  | 7                 |
| GMC Truck and Coach Division .....                   | 53                 | Sargent & Lundy, Engineers .....                     | 7                 |
| Gibbs & Hill, Inc. ....                              | 73                 | Schulman, A. S., Electric Co., Engineers .....       | 7                 |
| Gilbert Associates, Inc., Engineers .....            | 73                 | Slater-Byrne Management Associates .....             | 7                 |
| Gloman, W. C., & Company, Engineers .....            | 75                 | Sloan, Cook & Lowe, Consulting Engineers .....       | 7                 |
| Grinnell Company, Inc. ....                          | 58                 | Smith, Barney & Co. ....                             | 7                 |
| *Gründler Crusher & Pulverizer Co., The .....        | 7                  | Southern Coal Company, Inc., ....                    | Inside Back Cover |
| H  |                    | *Springfield Boiler Company .....                    | 7                 |
| Hansell, Sven E., Consulting Actuary .....           | 75                 | Sunbury Wire Rope Mfg. Company .....                 | 46                |
| Harriman Ripley & Co. ....                           | 23                 | U  |                   |
| Henkels & McCoy, Contractors .....                   | 73                 | Union Securities Corporation .....                   | 36                |
| Hosier Engineering Company .....                     | 73                 | United States Testing Co., Inc. ....                 | 7                 |
| Hotpoint, Inc. ....                                  | 20-21              | United Statistical Associates, Inc. ....             | 18                |
| I  |                    | Utah Power & Light Company .....                     | 47                |
| Idaho Power Company .....                            | 35                 | V  |                   |
| International Business Machines Corporation .....    | 30                 | Virginia Electric and Power Company .....            | 57                |
| International Harvester Company, Inc. ....           | 32                 | W  |                   |
| Iowa-Illinois Gas and Electric Company .....         | 22                 | Westcott & Mapes, Inc. ....                          | 7                 |
| Irving Trust Company .....                           | 7                  | White, J. G., Engineering Corporation, The .....     | 7                 |
|  |                    | Wisconsin Electric Power Company .....               | 31                |

Professional Directory .....72-75

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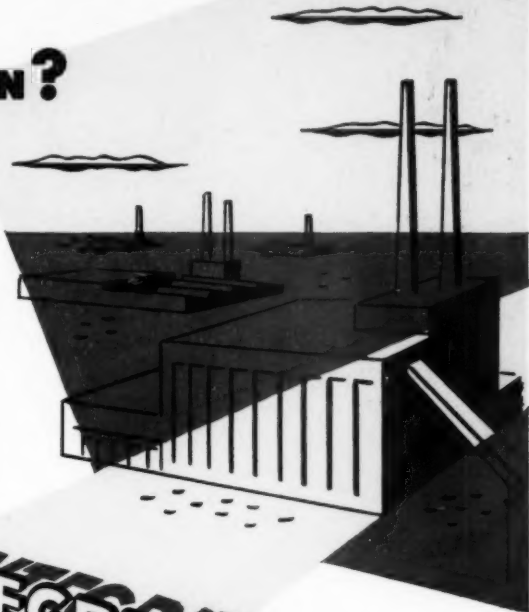


# WHAT COAL SHOULD YOU BURN?

**FOR ECONOMY?** Coal is without equal as the *economical fuel*—yet cost, alone, does not measure its economy unless it's the **RIGHT COAL FOR THE JOB!**

**FOR EFFICIENCY?** Efficiency depends primarily on scientific selection of the coal best suited to the individual plant. A coal that burns efficiently in one plant may fail in another.

**FOR BEST RESULTS?** Scientific study by engineers who know coal and how to burn it can answer all of these questions for you—without guess-work, without bias, and to your greatest advantage. Southern offers this service—use it without obligation.



## INTEGRITY



### IN COAL ENGINEERING

Answering questions about coal is the most important part of our business. To make certain that the answers are correct, Southern's engineering staff works in close cooperation with builders of firing equipment as well as with the mines that produce and prepare Southern's coals. The mission of Southern engineers is to help industry attain maximum economy and efficiency in the burning of coal to produce steam. Their success in accomplishing this mission is amply attested by the ever-increasing number of plants taking advantage of Southern's engineering service—a service backed up by "Integrity in Coal Engineering!"

"For today's  
**BEST BUYS  
IN COAL**  
look to Southern"

# Southern Coal Company, Inc.

General Office: 333 North Michigan Avenue, Chicago 1, Ill.  
Offices in: ATLANTA, BIRMINGHAM, CHARLOTTE, CHICAGO, KNOXVILLE, LOUISVILLE, MEMPHIS, NASHVILLE, ST. LOUIS  
Sinclair Coal Company, Kansas City 6, Mo. — Western Representatives  
Boon-Strachan Coal Company, Ltd., Montreal — Canadian Representatives



# **4 WAY Optical Assembly** **for very long spacing** **in residential areas**

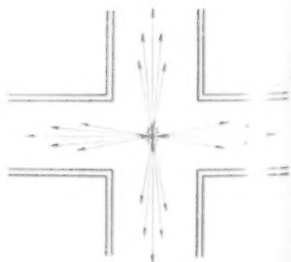
Here's a new high-efficiency luminaire, designed especially for right-angle intersections in residential areas. Companion to the already popular two-way Type VR, the new four-way Type VR directs light into four narrow, high-angle beams, 90 degrees apart.

This luminaire will find its greatest application on streets carrying very light traffic where the economy of long spacing, with 4000- and 6000-lumen lamps, is desirable. The Holophane Verti-lateral refractor provides a high angle of maximum candlepower—but with sharp cut-off above this angle. Because of the deeply shielded light source, the sharp cut-off, and the relatively low brightness of the apparent light source, glare is held to a remarkably low level. Minimum light is wasted on house fronts and off-street areas.

This new 4-way Type VR assembly can be used with G-E Form 79 or 101 aluminum hoods or with Form 45H and Form 72 wet-process porcelain insulators. Full information is available at all G-E Apparatus Sales Offices. *Apparatus Dept., General Electric Co., Schenectady 5, N. Y.*



This is the 4-WAY Type VR optical assembly on a Form 79. Using either 4000- or 6000-lumen lamps, the Type VR is both in installation and in operating costs. Maximum light is emitted at a comparatively high angle, yet with effective shielding to give long, narrow light distribution on all four sides of a 90 deg. intersection.



**GENERAL**  **ELECTRIC**